

32

715

96

2

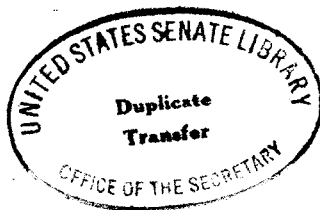
U. S. Congress.

ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

ELEVENTH CONGRESS.—FIRST AND SECOND
SESSIONS.



THE
DEBATES AND PROCEEDINGS
IN THE
CONGRESS OF THE UNITED STATES;
WITH
AN APPENDIX,
CONTAINING
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,
AND ALL
THE LAWS OF A PUBLIC NATURE;
WITH A COPIOUS INDEX.

ELEVENTH CONGRESS—FIRST AND SECOND SESSIONS.
COMPRISING THE PERIOD FROM MAY 22, 1809, TO MAY 1, 1810,
INCLUSIVE.

COMPILED FROM AUTHENTIC MATERIALS.

WASHINGTON:
PRINTED AND PUBLISHED BY GALES AND SEATON.
.....
1853.

PROCEEDINGS AND DEBATES

OF

THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE ELEVENTH CONGRESS, BEGUN AT THE CITY OF
WASHINGTON, MONDAY, MAY 22, 1809.

MONDAY, May 22, 1809.

Conformably to the act passed at the last session, entitled "An act to alter the time for the next meeting of Congress," the first session of the eleventh Congress commenced this day, and the Senate assembled in their Chamber, at the City of Washington.

PRESENT :

GEORGE CLINTON, Vice President of the United States, and President of the Senate.

NICHOLAS GILMAN and NAHUM PARKER, from New Hampshire.

TIMOTHY PICKERING, from Massachusetts.

JAMES HILLHOUSE and CHAUNCEY GOODRICH, from Connecticut.

ELISHA MATHEWSON and FRANCIS MALBONE, from Rhode Island.

JONATHAN ROBINSON, from Vermont.

JOHN LAMBERT, from New Jersey.

ANDREW GREGG and MICHAEL LEIB, from Pennsylvania.

SAMUEL WHITE, from Delaware.

SAMUEL SMITH, from Maryland.

WILLIAM B. GILES, from Virginia.

JESSE FRANKLIN and JAMES TURNER, from North Carolina.

JOHN GAILLARD, from South Carolina.

BUCKNER THRUSTON, from Kentucky.

RETURN JONATHAN MEIGS, jun., from Ohio.

JOSEPH ANDERSON, appointed a Senator by the Legislature of the State of Tennessee, for the term of six years, commencing on the fourth day of March last; and OBADIAH GERMAN, appointed a Senator by the Legislature of the State of New York, for the term of six years, commencing on the fourth day of March last, severally produced their credentials, which were read; and the oath prescribed by law having been administered to them, they took their seats in the Senate.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled and ready to proceed to business.

Resolved, That each Senator be supplied, during the present session, with three such newspapers, printed in any of the States, as he may

choose, provided that the same be furnished at the usual rate for the annual charge of such papers: and, provided, also, that if any Senator shall choose to take any newspapers other than daily papers, he shall be supplied with as many such papers as shall not exceed the price of three daily papers.

Resolved, That James Mathers, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper to the Senate; and that the sum of twenty-eight dollars be allowed him weekly for that purpose, to commence with, and remain during the session, and for twenty days after.

Messrs. ANDERSON and GILMAN were appointed a committee on the part of the Senate, together with such committee as may be appointed by the House of Representatives on their part, to wait on the President of the United States and notify him that a quorum of the two Houses is assembled and ready to receive any communications that he may be pleased to make to them.

A message from the House of Representatives informed the Senate that a quorum of the House is assembled, and that the House have elected JOSEPH B. VARNUM, Esq. one of the Representatives for the State of Massachusetts, their Speaker, and are ready to proceed to business. The House of Representatives have appointed a committee on their part, jointly, with the committee on the part of the Senate, to wait on the President of the United States and notify him that a quorum of the two Houses is assembled and ready to receive any communications that he may be pleased to make to them.

TUESDAY, May 23.

Mr. ANDERSON reported, from the joint committee, that they had waited on the President of the United States, and that the President of the United States informed the committee that he would make a communication to the two Houses at 12 o'clock this day.

JAMES LLOYD, jr., appointed a Senator by the Legislature of the State of Massachusetts, for six

SENATE.

President's Message.

MAY, 1809.

years, commencing on the fourth day of March last, attended and produced his credentials; which were read.

On motion, by Mr. FRANKLIN,
Ordered, That General Arthur St. Clair have leave to withdraw his petition presented the last session, together with the papers therein referred to.

Mr. LEIB presented the petition of Edward Pennington and others, sugar refiners in the city of Philadelphia, praying that a law may be passed granting a drawback on refined sugar exported, equal to the duties paid on the importation of brown sugar, for reasons mentioned in the petition; which was read, and ordered to lie for consideration.

On motion, by Mr. WHITE,
Resolved, That two Chaplains, of different denominations, be appointed to Congress during the present session, one by each House, who shall interchange weekly.

Ordered, That the Secretary request the concurrence of the House of Representatives in this resolution.

PRESIDENT'S MESSAGE.

The following Message was received from the
PRESIDENT OF THE UNITED STATES:

*Fellow-citizens of the Senate
and House of Representatives:*

On this first occasion of meeting you, it affords me much satisfaction to be able to communicate the commencement of a favorable change in our foreign relations, the critical state of which induced a session of Congress at this early period.

In consequence of the provisions of the act interdicting commercial intercourse with Great Britain and France, our Ministers at London and Paris were, without delay, instructed to let it be understood by the French and British Governments that the authority vested in the Executive to renew commercial intercourse with their respective nations would be exercised in the case specified by that act.

Soon after these instructions were dispatched, it was found that the British Government, anticipating from early proceedings of Congress, at their last session, the state of our laws, which has had the effect of placing the two belligerent Powers on a footing of equal restrictions, and, relying on the conciliatory disposition of the United States, had transmitted to their Legation here provisional instructions, not only to offer satisfaction for the attack on the frigate Chesapeake, and to make known the determination of His Britannic Majesty to send an Envoy Extraordinary, with powers to conclude a treaty on all the points between the two countries; but, moreover, to signify his willingness, in the mean time, to withdraw his Orders in Council, in the persuasion that the intercourse with Great Britain would be renewed on the part of the United States.

These steps of the British Government led to the correspondence and the proclamation now laid before you, by virtue of which the commerce between the two countries will be renewable after the 10th day of June next.

Whilst I take pleasure in doing justice to the Councils of His Britannic Majesty, which, no longer adhering to the policy which made an abandonment by France of her decrees a prerequisite to a revocation of the

British Orders, have substituted the amicable course which has issued thus happily, I cannot do less than refer to the proposal heretofore made on the part of the United States, embracing a like restoration of the suspended commerce, as a proof of the spirit of accommodation which has at no time been intermitted, and to the result which now calls for our congratulations, as corroborating the principles by which the public Councils have been guided during a period of the most trying embarrassments.

The discontinuance of the British Orders, as they respect the United States, having been thus arranged, a communication of the event has been forwarded in one of our public vessels to our Minister Plenipotentiary at Paris, with instructions to avail himself of the important addition thereby made to the considerations which press on the justice of the French Government a revocation of its decrees, or such a modification of them as that they shall cease to violate the neutral commerce of the United States.

The revision of our commercial laws, proper to adapt them to the arrangement which has taken place with Great Britain, will doubtless engage the early attention of Congress. It will be worthy, at the same time, of their just and provident care, to make such further alterations in the laws as will more especially protect and foster the several branches of manufacture, which have been recently instituted or extended by the laudable exertions of our citizens.

Under the existing aspect of our affairs, I have thought it not inconsistent with a just precaution, to have the gunboats, with the exception of those at New Orleans, placed in a situation incurring no expense beyond that requisite for their preservation and convenience for future service, and to have the crews of those at New Orleans reduced to the number required for their navigation and safety.

I have thought, also, that our citizens, detached in quotas of militia, amounting to one hundred thousand, under the act of March, one thousand eight hundred and eight, might not improperly be relieved from the state in which they were held for immediate service. A discharge of them has been accordingly directed.

The progress made in raising and organizing the additional military force, for which provision was made by the act of April, one thousand eight hundred and eight, together with the disposition of the troops, will appear by a report which the Secretary of War is preparing, and which will be laid before you.

Of the additional frigates required by an act of the last session to be fitted for actual service, two are in readiness, one nearly so, and the fourth is expected to be ready in the month of July. A report which the Secretary of the Navy is preparing on the subject, to be laid before Congress, will show, at the same time, the progress made in officering and manning these ships. It will show, also, the degree in which the provisions of the act relating to the other public armed ships have been carried into execution.

It will rest with the judgment of Congress to decide how far the change in our external prospects may authorize any modifications of the laws relating to the Army and Navy Establishments.

The works of defence for our seaport towns and harbors have proceeded with as much activity as the season of the year and other circumstances would admit. It is necessary, however, to state that the appropriations hitherto made being found to be deficient, a further provision will claim the early consideration of Congress.

MAY, 1809.

Proceedings.

SENATE.

The whole of the eight per cent. stock remaining due by the United States, amounting to five millions three hundred thousand dollars, had been reimbursed on the last day of the year 1808. And, on the first day of April last, the sum in the Treasury exceeded nine and a half millions of dollars. This, together with the receipts of the current year on account of former revenue bonds, will probably be nearly, if not altogether, sufficient to defray the expenses of the year. But the suspension of exports, and the consequent decrease of importations, during the last twelve months, will necessarily cause a great diminution in the receipts of the year one thousand eight hundred and ten. After that year, should our foreign relations be undisturbed, the revenue will again be more than commensurate to all the expenditures.

Aware of the inconveniences of a protracted session, at the present season of the year, I forbear to call the attention of the Legislature to any matters not particularly urgent. It remains, therefore, only to assure you of the fidelity and alacrity with which I shall co-operate for the welfare and happiness of our country; and to pray that it may experience a continuance of the divine blessings by which it has been so signally favored.

JAMES MADISON.

The Message and papers accompanying it were read and five hundred copies thereof ordered to be printed for the use of the Senate.

WEDNESDAY, May 24.

JOHN CONDIT, appointed a Senator by the Executive of the State of New Jersey, in the place of Aaron Kitchel, resigned, took his seat, and his credentials were read; and the President administered the oath to him as the law prescribes.

JOHN POPE, from the State of Kentucky, attended.

Mr. GILES submitted the following motion for consideration:

Resolved, That so much of the President's Message as relates to a revision of our commercial laws, for the purpose of adapting them to the arrangement which has taken place with Great Britain, be referred to a select committee, with instructions to examine the same and report thereon to the Senate; and that the committee have leave to report by bill or otherwise.

The following motion was submitted for consideration by Mr. GILES:

Resolved, That so much of the President's Message as relates to the defence of our seaport towns and harbors be referred to a select committee, with instruction to examine the same and report thereon to the Senate; and that the committee have leave to report by bill or otherwise.

The following motion was also submitted by Mr. GILES for consideration:

Resolved, That a select committee be appointed to inquire whether it be expedient, at this time, to make any modifications of the laws relating to the Army and Navy of the United States; and that the committee have leave to report by bill or otherwise.

A message from the House of Representatives informed the Senate that the House concur in the resolution sent from the Senate, for the appointment of Chaplains to Congress during the present session.

On motion by Mr. WHITE, the Senate proceeded to the election of a Chaplain on their part, in pursuance of the resolution of the two Houses, and the whole number of votes collected was 21, of which the Rev. Mr. WILNER had 11, and was accordingly elected.

THURSDAY, May 25.

The President laid before the Senate a letter from the Secretary of the Navy, enclosing a statement of the vessels belonging to the Navy of the United States, and of the gunboats; which was read and ordered to lie for consideration.

The Senate resumed the consideration of the motion submitted yesterday, that so much of the President's Message as relates to the revision of our commercial laws, for the purpose of adapting them to the arrangement which has taken place with Great Britain, be referred to a select committee, with instructions to examine the same and report thereon to the Senate, and that the committee have leave to report by bill or otherwise; and, having agreed thereto, Messrs. GILES, SMITH of Maryland, POPE, LLOYD, and GREGG, were appointed the committee.

The Senate resumed the consideration of the motion submitted yesterday, that so much of the President's Message as relates to the defence of our seaport towns and harbors be referred to a select committee, with instructions to examine the same and report thereon to the Senate, and that the committee have leave to report by bill or otherwise; and having agreed thereto, Messrs. GERMAN, GILMAN, MALBONE, SMITH of Maryland, and LEIB, were appointed the committee.

The Senate resumed the consideration of the motion submitted yesterday, that a select committee be appointed to inquire whether it be expedient at this time to make any modification of the laws relating to the Army and Navy of the United States, and that the committee have leave to report by bill or otherwise; and, having adopted the motion, Messrs. ANDERSON, HILLHOUSE, TURNER, WHITE, and FRANKLIN, were appointed the committee.

Mr. POPE gave notice that he should, to-morrow, ask leave to bring in a bill for the relief of William White and others.

FRIDAY, May 26.

JENKIN WHITESIDE, appointed a Senator by the Legislature of the State of Tennessee, for two years, commencing on the fourth of March last, in place of Daniel Smith, resigned, took his seat, and his credentials were read; and the President administered the oath to him as the law prescribes.

RICHARD BRENT, from the State of Virginia, attended.

Mr. POPE asked and obtained leave to bring in a bill for the relief of William White and others; and the bill was read, and passed to the second reading.

Mr. POPE presented a resolution to the General Assembly of the State of Kentucky, expressive of their opinion that strong garrisons at Michili-

SENATE.

Foreign Relations.

MAY, 1809.

makinac, St. Louis, and near the mouth of the Ohio, would be of great public utility, and particularly aid in the protection of the frontiers; and the resolution was read.

Ordered, That it be referred to the committee appointed yesterday on so much of the Message of the President of the United States as relates to the defence of our seaport towns and harbors, to consider and report thereon.

MONDAY, May 29.

The bill for the relief of William White and others was read the second time, and referred to Messrs. POPE, GREGG, HILLHOUSE, FRANKLIN, and MALBONE, to consider and report thereon.

Mr. THRUSTON presented the petition of John Mason and others, inhabitants of the county of Washington, in the District of Columbia, praying that such part of "An act supplementary to the act to incorporate the inhabitants of the City of Washington, in the District of Columbia," as exempts the City of Washington from taxation by the Levy Court of Washington county, be repealed, for reasons mentioned in the petition; which was read, and referred to Messrs. THRUSTON, ANDERSON, and BRENT, to consider and report thereon.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I now lay before Congress the report of the Secretary of War, showing the progress made in carrying into effect the act of April, 1808, for raising an additional military force, and the disposition of the troops.

MAY 26, 1809. JAMES MADISON.

The Message and report were read and ordered to lie for consideration.

The PRESIDENT laid before the Senate a letter from Mr. SMITH of Maryland, stating that being appointed by the Executive of that State a Senator in conformity with the Constitution, until the next meeting of the Legislature, which will take place on the 5th day of June next, he submits to the determination of the Senate the question, whether an appointment under the Executive of Maryland, to represent that State in the Senate of the United States, will or will not cease on the first day of the meeting of the Legislature thereof? and the letter was read; and, after debate, it was agreed that the further consideration thereof be postponed until to-morrow.

Mr. GILES gave notice that he should, to-morrow, ask leave to bring in a bill to fix the time for the next meeting of Congress.

A message from the House of Representatives informed the Senate that the House have appointed the Rev. JESSE LEE a Chaplain to Congress on their part during the present session. They have appointed a committee on their part, to join such committee as may be appointed on the part of the Senate, to inquire what business is necessary to be done during the present session. The House of Representatives have passed a bill, entitled "An act respecting the ships and vessels owned by citizens or subjects of foreign nations, with which

commercial intercourse is permitted;" in which they request the concurrence of the Senate.

The bill last brought up for concurrence was read, and, by unanimous consent, was read the second time, and referred to Messrs. LLOYD, GILES, and ANDERSON, to consider and report thereon.

Mr. LLOYD, from the committee, reported the bill without amendment; and it was read the third time by unanimous consent, and passed.

The resolution of the House of Representatives for the appointment of a joint committee to consider the business necessary to be acted on this session, was read for consideration.

Ordered, That Messrs. MALBONE, FRANKLIN, and GILMAN, be a committee agreeably to the 22d rule for conducting business in the Senate.

FOREIGN RELATIONS.

Mr. GILES, from the committee to whom was referred so much of the President's Message as relates to the revision of our commercial laws, for the purpose of adapting them to the arrangement which has taken place with Great Britain, reported a bill to amend and continue in force the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" which was read; and, on motion by Mr. LLOYD, the bill was amended by unanimous consent, and passed to the second reading. The bill is as follows:

A Bill to amend and continue in force the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, and the act to enforce and make more effectual, an act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States; and also the thirteenth, fifteenth and sixteenth sections of the act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes, be, and the same are hereby repealed: *Provided, however*, That all penalties and forfeitures, which have been incurred on account of any infraction of any of the said acts or sections, shall be recovered and distributed in like manner as if the said acts and sections had continued in full force and virtue.

SEC. 2. *And be it further enacted*, That so much of the act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes, as is not repealed by this act, shall continue in force until the end of the next session of Congress: *Provided* That nothing therein contained shall be construed to prohibit any trade or commercial intercourse which has been or may be permitted in conformity with the provisions of the eleventh section of the said act.

SEC. 3. *And be it further enacted*, That, during the continuance of this act, no ship or vessel shall be permitted to depart for any foreign port or place with which commercial intercourse has not been or may not be permitted by the last mentioned act: and no ship

MAY, 1809.

Proceedings.

SENATE.

or vessel, bound to a foreign port or place with which commercial intercourse has been or may be permitted by virtue of the said act, shall be allowed to depart, unless the owner or owners, consignee, or factor, of such ship or vessel shall, with the master, have given bond, with one or more sureties, to the United States, in a sum double the value of the vessel and cargo, that the vessel shall not proceed to any port or place with which commercial intercourse is not permitted by virtue of the said act, nor be directly or indirectly engaged during the voyage, in any trade with such port or place, nor shall put any article on board of any other vessel destined for such port or place. And if any ship or vessel shall, contrary to the provisions of this section, proceed to any such prohibited port or place, or be directly or indirectly engaged in any trade with such port or place, or shall depart from any port of the United States, without clearance, or without having given bond in the manner above-mentioned, such ship or vessel, together with her cargo, shall be wholly forfeited, and the owner or owners, agent, freighter or factors, master or commander of such ship or vessel shall, severally, forfeit and pay a sum equal to the value of the ship or vessel and of the cargo put on board the same: *Provided always*, That the provisions of the eleventh section of the last mentioned act, shall extend to the prohibitions imposed by this section; which prohibition shall cease to operate in the manner and under the limitations prescribed by the eleventh section aforesaid in relation to any nation with which commercial intercourse may hereafter be permitted, in conformity with the provisions of the eleventh section aforesaid.

SEC. 4. *And be it further enacted*, That all penalties or forfeitures arising under, or incurred by virtue of this act, shall be recovered and distributed, and may be remitted or mitigated, in the manner prescribed by the act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes.

SEC. 5 *And be it further enacted*, That all the vessels which may have arrived at any port or place within the United States, from Great Britain, her colonies or dependencies, since the twentieth day of May, one thousand eight hundred and nine, or which may arrive before the tenth of June next, shall be exempted from all the forfeitures and penalties incurred in consequence of any violation of any of the provisions of the said act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies.

TUESDAY, May 30.

Mr. GILES asked and obtained leave to bring in a bill to fix the time for the next meeting of Congress; and the bill was read, and passed to the second reading.

The bill to amend and continue in force the act, entitled, "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," was read the second time; and on motion, by Mr. GILES, it was agreed that the further consideration thereof be the order of the day for Thursday next.

The Senate resumed the resolution for appointing a joint committee on the business requisite to be done during the present session. On motion, by Mr. LEIB, to postpone the consideration thereof

for one week, it was determined in the negative; and the resolution was agreed to.

Ordered, That Messrs. GILES, FRANKLIN, and HILLHOUSE, be the committee on the part of the Senate.

Mr. POPE submitted the following motion:

Resolved, That a committee be appointed to inquire whether it be expedient, at this time, to pass a law for taking the census of the inhabitants of the United States and Territories thereof.

The Senate resumed the consideration of the letter from Mr. SMITH, of Maryland, communicated yesterday. And, on motion of Mr. GILES, the further consideration thereof was postponed to the 5th of June next.

WEDNESDAY, May 31.

STEPHEN R. BRADLEY, from the State of Vermont, attended.

Mr. GILES presented the memorial of Edward Livingston, of New Orleans, stating that, for a long time prior to the 25th January, 1804, he was in peaceable possession of a parcel of land called the Batture, in front of the suburb of St. Mary's, in the city of New Orleans. That, on the 25th of January, he was forcibly removed by the Marshal of the district, under the orders of the President of the United States, notwithstanding an injunction had been granted by the superior court against the execution of the warrant; and praying that the possession may be restored to him, and that such measures may be pursued as the wisdom of Congress may devise, for providing a legal decision on the title of the United States, if it shall be supposed they have any, to the property in question; and the memorial was read, and referred to Messrs. GILES, ANDERSON, HILLHOUSE, WHITE, and WHITESIDE, to consider and report thereon.

The Senate resumed the consideration of the motion made yesterday for a committee to inquire into the expediency of taking the census of the inhabitants of the United States and Territories; and, the motion being amended, was agreed to, as follows:

Resolved, That a committee be appointed to inquire whether it be expedient, at this time, to pass a law for taking the census of the inhabitants of the United States and Territories thereof; and that the committee have leave to report by bill or otherwise.

Ordered, That Messrs. POPE, MEIGS, and ANDERSON, be the committee.

The bill to fix the time for the next meeting of Congress was read the second time as in Committee of the Whole. On the question, Shall this bill be engrossed, and read a third time? it was determined in the affirmative.

Mr. MALBONE gave notice that he should, tomorrow ask leave to bring in a bill for extending the benefit of drawback upon exportation of all goods, wares, and merchandise, entitled thereto, which may, be transported by land from Newport, Rhode Island, to Boston, and from Boston to Newport.

THURSDAY, June 1.

Mr. MALBONE, from the committee, reported the bill to fix the time for the next meeting of Congress correctly engrossed: and the bill was read the third time, and the further consideration thereof postponed until Monday next.

NON-INTERCOURSE.

The Senate resumed the consideration of the bill to amend and continue in force the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," as in Committee of the Whole.

Mr. GILES offered the following amendment to the first section, to be inserted after the word "assembled:"

"That the provisions of the two first sections of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes, shall extend to all public armed ships and vessels of all foreign nations, and the same shall be, and are hereby, continued and made permanent, subject, nevertheless, to any modifications and regulations which may hereafter be made by treaty.'"

Mr. G. said, he felt himself constrained to move this amendment at this time, because he found it impossible to avoid a consideration of the subject involved in it, although he had heretofore hoped that it would not necessarily pass in review during the present session. He said this necessity arose from the limitation of these sections of the act at the last session. The connexion of these sections with the commercial non-intercourse system, was contrary to his opinion at that time; he then wished the subject to be taken up and acted upon in a separate bill, and made the permanent law of the land. His opinion then gave way to the respect he felt for the opinion of others. This will appear from the resolution he then moved, "to extend the interdiction to the public armed ships and vessels of all foreign nations." In consequence of connecting that subject with the general commercial non-intercourse, and limiting its duration with that act, it was now rendered a very delicate question. His proposition, however, was, to do now, what it was right to have done at the last session. He said that the proposition was founded upon the principle, that the United States had as absolute and unqualified a right to exclusive jurisdiction over the marine leagues usually attached to independent nations, as to their territorial jurisdiction, and as a consequence from that principle, foreign nations had no more right to send armed ships within our acknowledged marine jurisdiction, than they had to send an army within our territorial jurisdiction. This proposition is, therefore, merely municipal, formed upon an unquestionable right, and it is dictated by the same spirit of impartiality as that which dictated the original non-intercourse law. Indeed, it appeared to him the only impartial course now left us, as it respects the belligerents. It ought to preserve the most perfect impartiality,

which, Mr. Canning so justly tells us, "is the essence of neutrality."

Mr. G. said, it could not escape observation, that, in the overtures made by the British Cabinet for the revocation of the Orders in Council of the 7th of January and the 11th of November, the obligation to protect our neutral rights against France, heretofore offered on the part of our Government, in case of her perseverance in her hostile edicts, had been entirely overlooked, or unconditionally dispensed with. He said he derived much satisfaction from this liberal conduct on the part of the British Government, because it manifested a confidence in the honor and firmness of our Government, which must be peculiarly gratifying to every American; but it rather increased than lessened the obligation to persevere in protecting our neutral rights against French aggressions, if they should be persevered in, contrary to his expectation.

The motive or ground of resisting the aggressions of France cannot, under this overture, be mistaken. In the former case, it might have seemed as if the resistance was dictated by a stipulated obligation to Great Britain to make it in this; it can only be dictated by a just sense of our own honor, character, and interests, which is left perfectly uncontrolled by the British overture. As this latter motive is the more honorable, it ought to be the more scrupulously adhered to and enforced. He had no hesitation in saying he had uniformly been influenced by this motive alone, entirely disconnected with any stipulated obligation to Great Britain; and, under this influence alone, he would be found at all times as ready to resist the aggressions of France, as he had at any time been those of Great Britain, if they should, unfortunately, be persevered in; but, at the same time, he wished to take away every pretext for such perseverance, by persevering in a conduct of the strictest and most scrupulous impartiality toward all the belligerents.

At the last session he had supposed, under the general interdiction of all foreign armed vessels some regulations and modifications, as exceptions from the general rule, might be made by law, but further reflection had satisfied him that the preferable mode was by treaty.

He would state two or three reasons for this preference:

1. It will tend to avoid collisions with all foreign nations. Regulations made by law might not suit the views of foreign nations, whereas their consent would be necessary in treaties.

2. It will give us the aid of a stipulated obligation on the part of the foreign nation making the treaty, to enforce the arrangement. In the case of Great Britain this consideration is of great importance. Its importance results from the strength of her navy, compared with the weakness of ours.

3. By treaty we may obtain what the lawyers call a *quid pro quo*. We may want, at some future time, the use of some British ports, which she would readily give for the use of ours. He said he would act liberally with her in this respect;

MAY, 1809.

Non-Intercourse.

SENATE.

and, he believed, considering Great Britain now at war, and the United States at peace, it would rather accelerate than retard the expected negotiation. He said he was as much opposed to throwing any impediment in the way of the expected negotiation as any gentleman in the United States.

Great Britain cannot, and will not complain. The municipal right now proposed to be carried into effect, is admitted by Great Britain in its broadest extent, and will not be disputed by Mr. Canning at the present moment. This will appear from Mr. Canning's declarations in the debates of the last session of Parliament. He said he did not know whether it was correct to read newspapers in evidence, to ascertain the opinions and expressions of the speaker, but if the Senate would be content with this species of evidence, contained in a Ministerial paper, he would read it for their information. Mr. G. then read the following extract of Mr. Canning's speech, taken from a British Ministerial paper:

Extract from Mr. Canning's speech in Parliament.

"At the time the application for a compromise had been made by the American Government, there was an order in force excluding British ships of war from the American ports, while French ships of war were admitted into them; and, consequently, if the terms offered by America had been accepted, our commerce would have been permitted to America without a ship of war to protect it, while the French commerce would be excluded, at the same time that French ships of war would be admitted if they could succeed in getting there. The ports of America would become nests for French privateers against British commerce. As to the tendency of the measures in agitation in America, he could afford the right honorable gentleman some consolation, by assuring him that they would not have all the ill consequences he seemed to apprehend. A circumstance appeared by the report of the committee of Congress, though clothed in hostile language, which, if made known to His Majesty's Government in amicable terms, might have led to the acceptance of the terms proposed. The circumstance he alluded to was the resolution for excluding from American ports the ships of war not of Great Britain, but of the belligerents. The Americans, in their character of neutrals, had unquestionably a right to exclude the ships of war of both belligerents from their ports, but could not confine them exclusively to those of one of the belligerents without a violation of that impartiality which is the essence of the neutral character. Yet, when that proposition should be disposed of, the whole of the difficulty would not be surmounted, as much would still remain to be accommodated. Another point, in which fault had been charged upon his conduct with respect to America, was his having stated that the system would not be given up while the smallest link of the confederation against Great Britain existed."

It will be observed that two important conclusions may be deduced from these observations: 1. That the exercise of this municipal right is unquestionable. 2. That Mr. Canning's objection to its former exercise by proclamation was to its limitation, not its extension.

His objection is to its exercise against Great Britain exclusively and not against her enemies.

At the time of making this speech, Mr. Canning thought the interdiction was extended to all the belligerents; in which case, so far from complaining of its exercise, he says it would furnish an inducement to an accommodation, and his instructions to Mr. Erskine, were, no doubt, given under this expectation. This was the ground taken by the report of the committee of the House of Representatives, in the last session, and the Senate went further, by extending the interdiction to the public armed ships of all foreign nations; those of peace as well as those of war. This gave the transaction more strongly the character of a mere municipal regulation. This principle was narrowed down, in this bill, to apply merely to Great Britain and France, and left out altogether the other belligerent Powers. Mr. Canning will probably be much surprised at this limitation; and conceive hostility more pointed than he had anticipated; some of the points may, however, be a little blunted by including France, the most operating and unmanageable of her enemies. He said he did not wish to go one atom beyond Mr. Canning's opinion upon this occasion. He took great pleasure in concurring with Mr. Canning upon this point. It was the first instance in which he had concurred in opinion with the gentleman; but he hoped it would not be the last, especially when the opinion favored the rights and promoted the interest of the United States.

Mr. Canning must have acted under this impression when he agreed to make the honorable reparation he had done for the unauthorized attack upon the Chesapeake, without requiring a previous revocation of the interdiction of British ships. As this revocation was not demanded nor promised, the arrangement now ought to be made on general principles of justice. He said, without feeling or expressing any regret, at anything he had said or proposed at the last session, he was now as willing as any gentleman to reciprocate the temper lately manifested by the British Government, so opposite in its character and tendency from that manifested by the Cabinet for several years preceding. He said that no gentleman had yet manifested an intention of removing the interdiction upon British armed ships, until she had actually executed her promise of reparation; and, if the execution of the promise were to precede the revocation of the interdiction, the mode of revocation by treaty, as pointed out by his proposition, would be nearly cotemporaneous with that proposed by gentlemen, if now enacted into a law, and it would have an evident advantage, as it respected the feelings of Great Britain. The mode recommended by gentlemen is founded upon a want of confidence in the promise of Great Britain, and an ungracious demand for its execution, as a preliminary to the revocation, while the mode pointed out by treaty, is founded upon a confidence in the promise; and, without requiring its execution, will insure our own safety by the mere exercise of municipal right; a right which is unquestionable; vouched to be so by Mr. Canning, and the exercise of which is impartial toward all nations, by extending its provisions

SENATE.

Proceedings.

JUNE, 1809.

equally to all. He said that almost all the injuries and insults sustained by the United States from public armed ships of the belligerents within our waters, were attributable to an inattention to the exercise of this right, and, relax the interdiction when you may, without a stipulated obligation on the part of the belligerents, to respect your neutrality, and your marine jurisdiction, they will be renewed and continued.

The principle contended for is not new. It has been before the Senate several times, and was adopted at the last session in its broadest extent, as will appear from the following resolution, which he then had the honor of moving. It does not appear from the Journals of the Senate, that there was any opposition to the following resolution, which was adopted on the 15th of February last:

"The Senate resumed the consideration of the motion made on the 8th instant, that provision ought to be made by law for interdicting all foreign armed ships from the waters of the United States; and, having agreed thereto, ordered that it be referred to Mr. Giles, Mr. Smith, of Maryland, Mr. Crawford," &c.

He said he was extremely happy to find the spirit of harmony and conciliation which had hitherto characterized the Senate, and he should endeavor to preserve and continue it; and, while he was strongly impressed with the propriety and policy of the amendment, yet he was willing to listen to any other which might be more agreeable to gentlemen, provided it was founded upon a principle of strict impartiality toward the belligerents, which he could not be induced to depart from under any circumstances.

When Mr. G. had concluded, the further consideration of the subject was postponed until tomorrow.

FRIDAY, JUNE 2.

PHILIP REED, from the State of Maryland, attended.

STANLEY GRISWOLD, appointed a Senator by the Executive of the State of Ohio, to fill the vacancy occasioned by the resignation of Edward Tiffin, was qualified, and took his seat.

JOHN SMITH, from the State of New York, attended.

Mr. MALBONE asked and obtained leave to bring in a bill for extending the benefit of a drawback of the duties upon exportation on all goods, wares, and merchandise, subject thereto, that may be transported by land from the port of Newport to the port of Boston, and from said Boston to said Newport; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to amend and continue in force the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," together with the amendment submitted yesterday; and, on motion of Mr. PICKERING, further to amend the bill, it was ordered that the bill, together with the amendments, be recommitted to

Messrs. SMITH, of Maryland, GILES, LLOYD, POPE, and GREGG, to consider generally and report thereon.

Mr. GERMAN, from the committee to whom was referred, on the 25th of May last, so much of the President's Message as relates to the defence of our seaport towns and harbors; and, on the 26th, the resolution of the State of Kentucky, relative to garrisons on the Western waters, reported a bill making further appropriations to complete the fortifications commenced for the security of the ports and harbors of the United States, and to erect such fortifications as may be necessary for the protection of the Northern and Western frontiers of the United States; and the bill was read, and passed to the second reading.

The PRESIDENT laid before the Senate the report of the Secretary of the Treasury, in obedience to the act entitled "An act to establish the Treasury Department;" and the report was read, and ordered to lie for consideration.

MONDAY, JUNE 5.

Mr. MATHEWSON announced the death of his colleague, FRANCIS MALBONE, who deceased yesterday morning.

On motion of Mr. LLOYD,

Resolved, That the Senate will attend the funeral of FRANCIS MALBONE, this afternoon, at five o'clock, from his late residence; that notice thereof be given to the House of Representatives, and that a committee be appointed for superintending the funeral.

Ordered, That Messrs LLOYD, GILMAN, and WHITE, be the committee.

On motion, by Mr. LLOYD,

Resolved, unanimously, That the members of the Senate, from a sincere desire of showing their respect to the memory of FRANCIS MALBONE, deceased, late a member thereof, will go into mourning for him one month, by the usual mode of wearing a crape round the left arm; and that a sum not exceeding one hundred and fifty dollars be applied out of the contingent fund for placing a neat slab or monument, with a suitable inscription, over his tomb.

On motion of Mr. LLOYD,

Resolved, That, as an additional mark of respect to the memory of FRANCIS MALBONE, the Senate now adjourn.

And the Senate adjourned.

TUESDAY, JUNE 6.

Mr. GILES, from the joint committee appointed on the part of the Senate to consider and report the business requisite to be acted on during the present session, made a report; which was read for consideration.

The Senate resumed the consideration of the letter of Mr. SMITH, a Senator from the State of Maryland; and

Mr. GILES submitted a resolution, which was amended, and is as follows:

Resolved, That the Honorable SAMUEL SMITH, a Senator appointed by the Executive of the State of Maryland to fill the vacancy which happened in the

JUNE, 1809.

Proceedings.

SENATE.

office of Senator for that State, is entitled to hold his seat in the Senate of the United States during the session of the Legislature of Maryland, which, by the proclamation of the Governor of said State, was to commence on the 5th day of the present month of June; unless said Legislature shall fill such vacancy by the appointment of a Senator, and this Senate be officially informed thereof.

On motion, by Mr. ANDERSON, to amend the motion, by striking out all after the word "Resolved," and inserting:

"That any Senator of this body, who holds a seat under an Executive appointment, cannot, according to the provisions of the Constitution of the United States, be entitled to continue to hold his seat as a member of this body, after the meeting of the Legislature of the State from which such Senator may be a member.

And a division of the motion for amendment was called for, and the question having been taken on striking out, it passed in the negative; and the motion for amendment having been lost, the original motion was agreed to—yeas 19, nays 6, as follows:

YEAS—Messrs. Anderson, Brent, Franklin, Gaillard, German, Giles, Gilman, Goodrich, Griswold, Hillhouse, Lambert, Mathewson, Meigs, Pope, Robinson, Smith of New York, Thruston, White, and Whiteside.

NAYS—Messrs. Bradley, Leib, Lloyd, Parker, Pickering, and Turner.

On motion, by Mr. LLOYD, *Resolved*, That the President of the Senate be requested to notify the Executive of the State of Rhode Island and Providence Plantations of the death of FRANCIS MALBONE, late a Senator of the United States from that State.

The bill for extending the benefit of a drawback of the duties upon exportation on all goods, wares, and merchandise, subject thereto, that may be transported by land from the district of Newport to the port of Boston, and from said Boston to said Newport, was read the second time, and referred to Messrs. LLOYD, MATHEWSON, and GILMAN, to consider and report thereon.

Mr. ANDERSON, from the committee appointed on the 25th of May, to inquire whether it be expedient at this time to make any modification of the laws relating to the Army and Navy of the United States, reported in part a bill to suspend for a limited time the recruiting service; and the bill was read, and passed to the second reading.

The bill to fix the time for the next meeting of Congress was resumed, and the blank filled with "fourth Monday of November."

Resolved, That this bill pass, and that the title thereof be "An act to fix the time of the next meeting of Congress."

Mr. POPE, from the committee appointed to inquire whether it be expedient at this time to pass a law for taking the census of the inhabitants of the United States and the Territories thereof, reported a bill providing for the third census or enumeration of the inhabitants of the United States; which was read, and passed to a second reading.

On motion by Mr. ANDERSON, it was agreed to reconsider the vote for the second reading of the

bill; and, on motion, by Mr. BRADLEY, the further consideration of the bill was postponed until the fourth Monday in November next.

The bill making further appropriation to complete the fortifications commenced for the security of the seaport towns and harbors of the United States, and to erect such fortifications as may be necessary for the protection of the Northern and Western frontiers of the United States, was read the second time, and the further consideration thereof postponed until to-morrow.

WEDNESDAY, June 7.

JAMES A. BAYARD, from the State of Delaware, attended.

The bill to suspend for a limited time the recruiting service, was read the second time and considered as in Committee of the Whole. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the second reading of the bill making further appropriations to complete the fortifications commenced for the security of the ports and harbors of the United States, and to erect such fortifications as may be necessary for the protection of the Northern and Western frontiers of the United States; and, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

On motion, by Mr. ANDERSON,

Resolved, That the Secretary of the Senate be authorized to continue John Dempse as an engrossing clerk, in his office, for another quarter, to commence on the first day of April last, notwithstanding the present state of his health.

THURSDAY, June 8.

WILLIAM H. CRAWFORD, from the State of Georgia, attended.

Mr. FRANKLIN, from the committee, reported the bill to suspend for a limited time the recruiting service, correctly engrossed; and the bill was read the third time and passed.

Mr. FRANKLIN, from the committee, reported the bill making further appropriations to complete the fortifications commenced for the security of the ports and harbors of the United States, and to erect such fortifications as may be necessary for the protection of the Northern and Western frontiers of the United States, correctly engrossed; and the bill was read the third time, and the blank filled with "seven hundred and fifty thousand dollars."

Resolved, That this bill pass, and that the title thereof be "An act making further appropriations to complete the fortifications commenced for the security of the ports and harbors of the United States, and to erect such fortifications as may be necessary for the protection of the Northern and Western frontiers of the United States."

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the appoint-

ment of an agent for the land office at Kaskaskia, and allowing compensation to the commissioners and clerk;" a bill, entitled "An act supplementary to an act, entitled 'An act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians,' and to establish a land office in the Mississippi Territory;" also, a bill, entitled "An act declaring the assent of Congress to a certain act of the State of South Carolina, passed the twenty-first of December, one thousand eight hundred and four;" in which bills they request the concurrence of the Senate.

The three bills last mentioned were read, and passed to the second reading.

On motion, by Mr. MEIGS,

The bill, entitled "An act authorizing the appointment of an agent for the land office at Kaskaskia, and allowing compensation to the commissioners and clerk," was read the second time by unanimous consent, and referred to Messrs. MEIGS, PICKERING, and POPE, to consider and report thereon.

Mr. LLOYD, from the committee to whom was referred the bill for extending the benefit of a drawback of the duties upon exportation on all goods, wares, and merchandise, subject thereto, that may be transported by land from the port of Newport to the port of Boston, and from said Boston to said Newport, reported the bill without amendment; and the bill was considered as in Committee of the Whole; and no amendment having been proposed, on the question, Shall this bill be engrossed, and read a third time? it was determined in the affirmative.

Mr. HILLHOUSE submitted the following motion:

Resolved, That a Committee of Elections be appointed, to examine and report on the credentials and qualifications of the members returned to serve in the Senate, since the third day of March, 1803.

GUNBOATS.

Mr. ANDERSON, from the committee appointed on the 25th of May, to inquire whether it be expedient at this time to make any modification of the laws relating to the Army and Navy of the United States, reported in part a bill to direct the sale of gunboats; and the bill was read, and passed to the second reading.

Mr. A. also reported sundry documents on the subject referred to the consideration of the committee, which were read, as follows:

Documents accompanying the bill providing for the sale of gunboats, reported by Mr. Anderson to the Senate, June 8, 1809.

COMMITTEE ROOM, May 29, 1809.

SIR: The committee to whom has been referred a resolution of Senate, authorizing the committee to inquire whether it be expedient at this time to make any modifications of the laws relating to the Army and Navy of the United States, have directed me to ask information of you, upon the following points:

How many gunboats have been built under the existing laws?

What has been the average, or aggregate cost of building them?

In what situation are they now placed or contemplated to be placed?

How many of them laid up, and how many in actual service, and where stationed?

What will be the annual expense of taking care of those laid up?

What the annual expense of those to be continued in actual service?

What will be the probable state of those gunboats at the end of one year, which may be laid up or unemployed?

What will be the probable state of those, at the end of one year, which may be kept in service, on the coasts or in the harbors?

Which would best promote the true interest of the nation, and of the Navy Department; to continue the system of gunboats hitherto adopted, and dispose of them in the manner now authorized by law, or to authorize the President to cause them to be sold, except so many as he may think expedient to be retained in service?

What would be the difference in the expense of keeping one or more frigates on our coasts, or sending them to the Mediterranean, should it be considered expedient to keep any armed vessels in the Mediterranean seas?

Upon the foregoing points the committee wish you to give as full a view as you can, from such data as you now possess.

Is it at this time expedient to make any modification of the laws of the United States, in relation to her Navy Department?

If so, what are the modifications you deem expedient, so far as you have had time and opportunity to examine them?

Accept assurances of my high consideration,

JOS. ANDERSON,

Chairman of the Committee.

NAVY DEPARTMENT, June 8, 1809.

SIR: I have received your letter of 29th ultimo, requesting information, which I have now the honor to give upon the points therein stated.

There have been built under the existing laws, one hundred and seventy-six gunboats and bombs; and the average cost of building them may be calculated at nine thousand dollars.

The paper A, herewith sent, affords the requisite information as to the situation in which these boats are now placed; the number laid up, the number in actual service, and where stationed.

Paper B, is an exhibit of "the annual expense of taking care of those laid up."

Paper C, is an exhibit of the annual expense of maintaining one gunboat, and twenty-four of them on one station; for instance, New Orleans, in actual service.

As to the "probable state of those gunboats at the end of one year, which may be laid up, or unemployed," I will observe, that, with all the care that can be taken of them, they will unavoidably decay in a greater or less degree; those built of green, will of course decay much sooner than those built of seasoned timber. To keep a gunboat in a state of preparation for service, we shall very frequently be subjected to the expense of repairing her; an expense to an amount which cannot be foreseen. The sails, and standing and running rigging, at present belonging to those laid up, will probably, at the end of one year, be so much injured

JUNE, 1809.

Gunboats.

SENATE.

as to be unfit for use; their small boats and water casks, unless well protected from the rain and sun, will sustain considerable injury in the course of the same time; and they cannot be so protected without expense. If a gunboat is suffered to lie in port for one year, without giving her any repair, she will probably be found, at the expiration of that year, wholly unworthy of being repaired.

With respect to those kept in service, they also will decay, if not occasionally repaired; though it is observed by professional men, that vessels in service, especially in salt water, are less subject to decay than they are lying in port, and universal experience does, I believe, sanction this idea.

In reply to your query respecting the gunboat system, as relating to the "interest of the nation and of the Navy Department," and as to the propriety of continuing that system or the abandoning of it by a sale of the boats, I am to observe that much must depend on the species of policy which, in the event of a war, may be adopted. If that event should shortly occur, and it is determined that a plan of operations merely defensive shall be pursued, there can be no doubt that gunboats will aid materially, if properly stationed; but if, on the contrary, our marine should be directed against a foreign trade, and to the conveying and protection of our own, a system of well-armed sailing frigates, and smaller cruisers, would, on every principle, be preferable in point of effect; and, comparatively, rated per gun and number of men to be employed, would be much less costly. It must also be observed, that it is only on board of vessels suited for sea service, that good seamen are to be formed, and that those calculated merely for ports, afford no opportunity for improvement in naval science. As to the expediency of selling or retaining the gunboats, reference to the preceding exhibits affords some information; but I beg leave to remark, that nothing short of a knowledge of the policy which events may induce could enable me to give a decided opinion on this point.

"The difference of the expense of keeping one or more frigates on our own coast, and sending them to the Mediterranean," would, in my opinion, be considerable. On our own coast, they will, especially in the Winter and Spring months, be subject to numerous accidents, from causes universally known, and not existing, it is believed, in an equal degree, in any other part of the world, such as frequent and sudden heavy squalls of wind, numerous shoals, thick fogs, and the irregularity of the motion of the Gulf Stream, which, in misty weather, renders the approach to our coast peculiarly hazardous. For our vessels stationed in the Mediterranean we should be subject to the expense of transporting certain articles of provisions and naval stores, not to be obtained in that sea; but this, I believe, the only additional expense to which they would be subjected, and this expense may be more than counterbalanced by the accidents to which our vessels would be subject on our own coast, and the comparative cheapness of certain supplies which can be obtained in the Mediterranean ports; and I am persuaded that, if Congress would authorize the building of a suitable vessel for the transportation of provisions from this country to the Mediterranean, for the use of any of our vessels that might be stationed in that sea, the expense of maintaining them there would be less than the expense of maintaining them on our own coast.

As you have not required my opinion on the expe-

diency of sending some of our frigates to the Mediterranean, I will only venture to suggest for consideration, that we have in that sea a valuable trade at stake, subject to the depredations of a lawless people, whose dispositions might be effectually restrained by the presence of a few vessels of respectable force; and that I consider professional knowledge, on the part of our officers, which can best be acquired abroad, as of high national importance.

With respect to the expediency of modifying the laws in relation to the Navy Department, it appears to me that some alterations are necessary.

By the act authorizing the employment of an additional naval force, passed at the last session of Congress, it appears that the Executive is restricted from sending our vessels equipped under that act, beyond our coast. If it shall now be deemed expedient to send any of them to the Mediterranean, or any other foreign station, this restriction ought to be removed, or so modified as to give to the Executive power adequate to the purpose.

I avail myself of this occasion, respectfully to submit to consideration the memorial of the officers of the Navy, some time since presented to Congress, a copy of which, with copies of a letter from my predecessor to Mr. Montgomery, chairman of a committee of the House of Representatives, dated the first of April, one thousand eight hundred and eight, and of a letter from Captain Bainbridge to me, upon the same subject, are herewith transmitted, and marked D. Having attentively perused this memorial, I cannot withhold the expression of my opinion that the prayer thereof is perfectly reasonable. National considerations ought, surely, to induce us to foster that just and honorable pride, that truly patriotic ambition, to which our navy officers, and especially those well skilled in seamanship, obviously sacrifice their pecuniary interests.

To another and not an uninteresting subject, embraced by the queries which you have propounded to me, I will also invite your serious attention. By the act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, it is provided that the commissions to navy agents shall not exceed one per centum, nor in any instance the compensation allowed by law to the purveyor of public supplies. The Treasury construction of this statute will appear by the papers E. and F., herewith sent. That construction prohibits any allowance, under any circumstances, for either clerk-hire, porters, office rent, fuel, or stationery. The whole receipts of the agents are confined to one per centum, and the produce of that per centage is limited to \$2,000 per annum.

In our large seaport towns, and especially in Norfolk, Baltimore, Philadelphia, and New York, our purchases will necessarily be extensive; often so much so, as to occupy exclusively the time of the agent. In these places clerks must be indispensable, and porters highly useful; and wherever we have an agent, it appears to me proper that the public should allow whatever the agent may reasonably pay for office rent, fuel, and stationery. It is not probable that the commissions to the agents will, in any other places than those mentioned, viz: Norfolk, Baltimore, Philadelphia, and New York, amount to two thousand dollars; and in neither of these places will the clear receipts of either of the agents amount to more than five hundred and fifty dollars per annum, as will more particularly appear by the accompanying exhibit marked G. In other

SENATE.

Gunboats.

JUNE, 1809.

places the commissions will not amount to as much as is now given to the most common clerk in a merchant's counting-house.

To make the commissions amount to two thousand dollars, it would require that two hundred thousand dollars should be disbursed; and if an agent should disburse one million of dollars, or any sum exceeding that, the gross amount of his pay for such disbursements, is limited to two thousand dollars; the net amount of which cannot reasonably be calculated at more than five hundred and fifty dollars.

With this view of the subject, I cannot rely upon the present agents' continuing to hold their appointments, or upon other fit persons accepting such appointments, without the law in question being so modified as to make them a reasonable allowance for their services, and the expenses inseparably connected with the discharge of their official duties. In disbursing so large a sum of money, as an agent must disburse, to entitle him to the small compensation of five hundred and fifty dollars per annum, he hazards the loss of ten times as much from irregularity in vouchers, erroneous calculations, misinterpretation of instructions, for not strictly conforming in each and every purchase to the specific restrictions of the existing law, and from various causes to which the most correct men are, and ever will be liable, in a greater or less degree.

The copy of a letter from General Stricker, navy agent at Baltimore, a gentleman justly of a high standing in society, and I am told as good an agent as could be procured in any country, herewith sent, and marked H, will explain to you his situation under the existing law; and other agents, of equal merit, are similarly situated.

Deeming it my duty, under the latitude you have allowed, to be perfectly explicit and full in my communication to you upon this subject, and being sincerely anxious to manage the business of the department in such manner as to promote the interests of the nation, I trust I shall not be thought presumptuous when I suggest the indispensable necessity of being aided by able agents.

I flatter myself, sir, with a belief that I have afforded the information required, and I regret that I have not been able to do it at an earlier moment.

I am, with great respect, &c.

PAUL HAMILTON.

HON. JOSEPH ANDERSON, *Chairman.*

C.

Estimate of the annual expense of maintaining one gunboat in actual service; and of the annual expense of maintaining twenty-four gunboats in actual service at New Orleans.

One Gunboat—Pay and subsistence.

| | |
|--|---------|
| One lieutenant commanding, fifty dollars per month, four rations per day | \$892 |
| One lieutenant, forty dollars per month, three rations per day | 699 |
| Two midshipmen, nineteen dollars per month, one ration per day | 602 |
| One boatswain, twenty dollars per month, two rations per day | 386 |
| One gunner, twenty dollars per month, two rations per day | 386 |
| One steward, eighteen dollars per month, one ration per day | 289 |
| | <hr/> |
| | \$3,254 |

Deduct one ration per day for each officer, it being estimated in the articles of provisions, because each officer will draw one ration in kind, 2,555 rations, at twenty cents 511 |

\$2,743

Eight able seamen, at twelve dollars per month, 1,150 rations; and sixteen ordinary seamen, at eight dollars per month, 1,536 rations 2,686 || Marines | 1,500 |
| Provisions | 3,570 |
| Repairs, &c. | 750 |
| Medicine and hospital stores, &c. | 250 |

\$11,499

Say \$11,500 |

As one gunboat will cost \$11,500 per annum, twenty-four gunboats will cost \$276,000 |

Estimate of the annual expense of maintaining in actual service twenty-four gunboats at New Orleans.

One captain commanding, one hundred dollars per month, sixteen rations per day \$2,368 || Five surgeons, fifty dollars per month | 3,000 |
| One purser, forty dollars per month | 400 |
| Four surgeons' mates, thirty dollars per month | 1,440 |
| Five thousand one hundred and ten rations, at twenty cents | 1,022 |

\$6,510

Annual expense of twenty-four gunboats, not including the above essential officers 276,000 |

Total amount of expense of twenty-four gunboats in actual service at New Orleans \$284,310 |

NOTE.—In the above estimate, full crews are allowed to the gunboats; but orders have been given to reduce the crews of the gunboats at New Orleans to a number merely sufficient for their navigation and safety. The reduction is left to the commanding officer at New Orleans, who, from a full view of all circumstances, can form the most satisfactory judgment upon this point. We have not had time to hear from him what the actual reduction has been; but we may estimate that this reduction, from the time it shall be made, will reduce their annual expense to \$250,000.

FRIDAY, JUNE 9.

Mr. FRANKLIN, from the committee, reported the bill for extending the benefit of a drawback of the duties upon exportation on all goods, wares, and merchandise, subject thereto, that may be transported by land from the port of Newport to the port of Boston, and from said Boston to said Newport, correctly engrossed; and the bill was read the third time, and passed.

Resolved, That this bill pass, and that the title thereof be "An act for extending the benefit of a drawback of the duties upon exportation on all goods, wares, and merchandise, subject thereto,

JUNE, 1809.

Proceedings.

SENATE.

that may be transported by land from the port of Newport to the port of Boston, and from said Boston to said Newport."

The bill to direct the sale of gunboats was read the second time, and ordered to lie for consideration.

The bill, entitled "An act to continue in force 'An act declaring the assent of Congress to a certain act of the State of South Carolina, passed the 21st of December, 1804,'" was read the second time, and referred to Messrs. GAILLARD, GILES, and GILMAN, to consider and report thereon.

The bill, entitled "An act supplementary to an act, entitled 'An act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians,' and to establish a land office in the Mississippi Territory," was read the second time, and considered as in Committee of the Whole; and no amendment having been offered, the bill was ordered to the third reading.

MR. SMITH, of Maryland, from the Committee to whom was referred the bill to amend and continue in force the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," together with the amendments proposed thereto, reported a new draught, as a substitute for the original bill, which was read and considered as in Committee of the Whole.

MR. MEIGS, from the committee to whom was referred the bill, entitled "An act authorizing the appointment of an agent for the land office at Kaskaskia, and allowing compensation to the commissioners and clerk," reported the bill amended.

The Senate proceeded to consider the amendment, as in Committee of the Whole, and having agreed thereto, the President reported the bill to the House accordingly; and the bill was ordered to a third reading as amended.

MR. FRANKLIN, from the committee, reported the amendment correctly engrossed, and the bill was read the third time as amended, by unanimous consent, and passed.

MR. GILES submitted a resolution authorizing the President of the Senate and Speaker of the House of Representatives to adjourn their respective Houses, and the resolution was twice read by unanimous consent. On the question, Shall this resolution be engrossed and read a third time? it was determined in the affirmative.

The following Message was received from the President of the United States:

To the Senate of the United States:

In compliance with the request of the Legislature of Pennsylvania, I transmit to Congress a copy of certain of its proceedings, communicated for the purpose by the Governor of that State.

JAMES MADISON.

JUNE 4, 1809.

The Message and papers were read, and ordered to lie for consideration.

The Senate resumed the consideration of the motion submitted yesterday, which, being amended, was agreed, to, as follows:

11th CON. 1st Sess.—2

Resolved, That a Committee of Elections be appointed.

Ordered, That Messrs. HILLHOUSE, GILES, CRAWFORD, FRANKLIN, and ROBINSON, be the committee.

On motion, by Mr. HILLHOUSE,

Ordered, That the credentials of STANLEY GRISWOLD, appointed a Senator by the Executive of the State of Ohio, be referred to this committee.

SATURDAY, June 10.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

Ordered, That it be postponed until Monday next.

MR. WHITE presented the memorial of Michael Megear, and others, manufacturers of hats in the borough of Wilmington, and State of Delaware, praying that protecting measures may be adopted to improve and increase this branch of manufactures, and submitting the propriety of laying an additional duty on the importation of hats of foreign manufacture, or of prohibiting the importation entirely; and the memorial was read, and ordered to lie on the table.

The bill, entitled "An act supplementary to an act, entitled 'An act making appropriation for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians,' and to establish a Land Office in the Mississippi Territory," was read the third time, and passed.

The engrossed resolution authorizing the President of the Senate and Speaker of the House of Representatives to adjourn their respective Houses, was read the third time, and the blank was filled; and

Resolved, That the President of the Senate and Speaker of the House of Representatives be authorized to adjourn their respective Houses on the 20th day of June instant.

MONDAY, June 12.

On motion, by Mr. GILES,

Resolved That a committee be appointed to inquire whether it be expedient and proper, at this time, to make any provision by law for remitting the penalties and forfeitures incurred by the violations of some of the provisions of the act, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight," so far only as relates to the introduction of slaves into certain ports of the United States, who were lately forcibly expelled from the island of Cuba with the French inhabitants thereof; and that the committee have leave to report by bill or otherwise.

Ordered, That Messrs. GILES, BRADLEY, ANDERSON, CRAWFORD, and FRANKLIN, be the committee.

SENATE.

Proceedings.

JUNE, 1809.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and for other purposes."

Ordered, That the further consideration thereof be postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the bill to direct the sale of gunboats.

Ordered, That the further consideration thereof be postponed until to-morrow.

Mr. GAILLARD, from the committee to whom was referred the bill, entitled "An act to continue in force 'An act declaring the assent of Congress to a certain act of the State of South Carolina, passed the 21st of December, 1804,'" reported the bill without amendment.

Ordered, That this bill pass to the third reading.

TUESDAY, JUNE 13.

The PRESIDENT communicated a report from B. Henry Latrobe, Surveyor of the Public Buildings, made in obedience to the order of the President of the United States; and the report was read. Also, a letter from B. Henry Latrobe, stating the expenses incurred by fixing up a temporary Senate Chamber, with sundry vouchers; which were read, and referred to a select committee, to consider and report thereon by bill or otherwise.

Ordered, That Messrs. BRENT, GREGG, and LEIB, be the committee.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" and the further consideration thereof was postponed until to-morrow.

On motion, by Mr. LLOYD,

Resolved, That the President of the United States be requested to cause to be laid before the Senate such information in relation to our concerns with Great Britain, as may be in possession of the Department of State, as he may think it expedient to submit to the Senate.

Ordered, That the Secretary lay this resolution before the President of the United States.

A message from the House of Representatives informed the Senate that the House disagree to the amendment of the Senate to the bill, entitled "An act authorizing the appointment of an agent for the land office at Kaskaskia, and allowing compensation to the commissioners and clerk."

The bill, entitled "An act to continue in force 'An act declaring the assent of Congress to a certain act of the State of South Carolina, passed the 21st day of December, 1804,'" was read the third time, and passed.

The Senate proceeded to consider their amendment to the bill, entitled "An act authorizing the appointment of an agent for the land office at Kaskaskia, and allowing compensation to the

Commissioners and clerk," disagreed to by the House of Representatives; and, on motion, by Mr. POPE,

Resolved That they recede from their said amendment.

The Senate resumed the consideration of the bill to direct the sale of gunboats, as in Committee of the Whole. On motion, by Mr. BRADLEY, to postpone the further consideration thereof until the first Monday in January next, it was determined in the negative.

On motion, by Mr. ANDERSON, the consideration of this bill was further postponed until to-morrow.

WEDNESDAY, JUNE 14.

Mr. GILES, from the committee appointed on the 12th instant, on this subject, reported a bill for the remission of certain penalties and forfeitures, and for other purposes;" and the bill was read, and passed to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the discharge of John Heard from his imprisonment," in which they request the concurrence of the Senate.

The bill was twice read by unanimous consent, and referred to Messrs. LEIB, WHITE, and CONDIT, to consider and report thereon.

Mr. LEIB, from the committee to whom was referred the bill, entitled "An act authorizing the discharge of John Heard from his imprisonment," reported the bill without amendment.

The Senate proceeded to consider the bill as in Committee of the Whole, and no amendment having been proposed thereto, the bill was ordered to the third reading.

Mr. LLOYD submitted the following motion:

Resolved, That the Secretary of the Senate be authorized to pay, out of the contingent fund, the expenses incurred for the funeral of FRANCIS MALBONE, late a Senator of the United States, whenever the same shall have been allowed and certified by the Committee of Arrangement.

THURSDAY, JUNE 15.

The bill for the remission of certain penalties and forfeitures, and for other purposes, was read the second time, and the further consideration thereof postponed until to-morrow.

Mr. REED gave notice that he should to-morrow ask leave to bring in a bill to change the post route from Annapolis to Rockhall, by Baltimore to Rockhall.

The bill, entitled "An act authorizing the discharge of John Heard from his imprisonment," was read the third time, and passed.

The Senate resumed the consideration of the motion submitted yesterday; and

Resolved, That the Secretary of the Senate be authorized to pay, out of the contingent fund, the expenses incurred for the funeral of FRANCIS MALBONE, late a Senator of the United States, whenever the same shall have been allowed and certified by the Committee of Arrangement.

JUNE, 1809.

Proceedings.

SENATE.

Mr. HILLHOUSE, from the Committee of Elections, to whom were referred the credentials of STANLEY GRISWOLD, Esq., appointed a Senator of the United States by the Executive of the State of Ohio, made report: Whereupon,

Resolved That STANLEY GRISWOLD, appointed by the Governor of the State of Ohio, as a Senator of the United States, to fill the vacancy occasioned by the resignation of EDWARD TIFFIN, is entitled to his seat.

FRIDAY, June 16.

The following Message was received from the President of the United States:

To the Senate of the United States:

In compliance with the resolution of the Senate of the 13th instant, I transmit extracts from letters from Mr. Pinkney to the Secretary of State, accompanied by letters and communications to him from the British Secretary of State for the foreign department; all of which have been received here since the last session of Congress.

To these documents are added a communication just made by Mr. Erskine to the Secretary of State, and his answer. JAMES MADISON.

JUNE 15, 1809.

The Message and papers were read, and ordered to lie for consideration, and three hundred copies thereof printed for the use of the Senate.

The Senate resumed, as in Committee of the Whole, the bill for the remission of certain penalties and forfeitures, and for other purposes; and on motion, by Mr. REED, to expunge the second section, as follows:

"And be it further enacted, That any owner of any such slave may have and exercise the same rights of ownership over the same as if the act aforesaid had never been passed, until the Legislatures of the several States and Territories thereof, within which any such slave or slaves may have been brought as aforesaid, shall have disposed of the same according to the provisions of the act aforesaid."

It was determined in the affirmative—yeas 19, nays 9, as follows:

YEAS—Messrs. Bayard, Condit, Franklin, German, Gilman, Goodrich, Gregg, Griswold, Hillhouse, Lambert, Leib, Lloyd, Mathewson, Parker, Pickering, Reed, Smith of New York, Thruston, and White.

NAYS—Messrs. Anderson, Bradley, Brent, Crawford, Gaillard, Giles, Pope, Turner, and Whiteside.

On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative—yeas 20, nays 5, as follows:

YEAS—Messrs. Anderson, Bradley, Brent, Condit, Crawford, Franklin, Gaillard, German, Giles, Gilman, Gregg, Griswold, Lambert, Leib, Pope, Smith of New York, Thruston, Turner, White, and Whiteside.

NAYS—Messrs. Bayard, Goodrich, Hillhouse, Lloyd, and Pickering.

Mr. BRENT gave notice that he should, to-morrow, ask leave to bring in a bill to appropriate certain public grounds in the city of Washington for the erection of public baths.

The Senate resumed as in Committee of the Whole, the bill to direct the sale of gunboats.

On motion, by Mr. ANDERSON, it was agreed that this bill be recommitted to a select committee; and Messrs. ANDERSON, TURNER, and HILLHOUSE, were appointed the committee, further to consider and report thereon.

The Senate resumed, as in Committee of the Whole the bill to amend, and continue in force the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain, and France, and their dependencies, and for other purposes."

On motion, by Mr. WHITE, the further consideration thereof was postponed until to-morrow.

Mr. BRENT submitted the following motion:

Resolved, That the petition of Richard Bland Lee, presented at the last session of Congress, praying compensation for injuries committed on his property near Harper's Ferry, by the officers and agents of the United States, be referred to the Secretary of War, to examine the allegations thereof, and report to the next session of Congress a special statement of facts thereon, particularly the extent and value of the trespasses alleged to have been committed, with his opinion thereon.

Mr. REED asked and obtained leave to bring in a bill to change the post route from Annapolis to Rockhall, by Baltimore to Rockhall; and the bill was read, and by unanimous consent, it was read a second time, and referred to Messrs. REED, WHITE, and BRADLEY, to consider and report thereon.

SATURDAY, June 17.

Mr. REED, from the committee to whom was referred the bill to change the post route from Annapolis to Rockhall, by Baltimore to Rockhall, reported the bill without amendment.

The Senate proceeded to consider the bill as in Committee of the Whole, and no amendment having been proposed thereto, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Mr. BRENT asked and obtained leave to bring in a bill to appropriate certain public grounds in the City of Washington for the erection of public baths; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" and the President reported the bill to the House amended. On the question, Shall this bill be engrossed, and read a third time as amended? it was determined in the affirmative.

Mr. FRANKLIN, from the committee, reported the bill for the remission of certain penalties and forfeitures, and for other purposes, correctly engrossed; and the bill was read the third time.

On motion, by Mr. HILLHOUSE, *Ordered,* That this bill be postponed until Monday next.

Mr. FRANKLIN, from the committee, reported the bill to change the post route from Annapolis

SENATE.

Proceedings.

JUNE, 1809.

to Rockhall, by Baltimore to Rockhall, correctly engrossed; and the bill was read the third time, and the blank filled with "15th of July."

Resolved, That this bill pass, and that the title thereof be "An act to change the post route from Annapolis to Rockhall, by Baltimore to Rockhall."

MONDAY, JUNE 19.

On motion by Mr. GILES,

Resolved, That the President of the United States be requested to cause to be laid before the Senate such information as he may deem proper to communicate respecting the unfortunate exiles lately expelled from the Island of Cuba, and who may have arrived or are expected to arrive within the jurisdiction of the United States; and, also, respecting any propositions which may have been made to him by the Minister Plenipotentiary of France, for the purpose of facilitating the removal of any of the said exiles, with their slaves and other effects, from the United States, to any place within the dominions of France.

Ordered, That the Secretary lay this resolution before the President of the United States.

The Senate resumed the third reading of the bill for the remission of certain penalties and forfeitures, and for other purposes.

Ordered, That it be referred to Messrs. GILES, ANDERSON, CRAWFORD, FRANKLIN, and HILLHOUSE, to consider and report thereon.

Mr. ANDERSON, from the committee to whom was referred the bill to direct the sale of gunboats, reported the bill with an amendment.

Mr. BRENT gave notice that he should, to-morrow, ask leave to bring in a bill supplementary to an act, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia."

The bill to appropriate certain public ground in the city of Washington for the erection of public baths, was read the second time, and considered as in Committee of the Whole, and amended; and the President having reported the bill to the House accordingly, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The PRESIDENT laid before the Senate a letter from the Secretary of War, containing three statements of contracts made by the Secretary of War and the Purveyor of Public Supplies in the year 1808, in pursuance of the act of the 21st of April, 1808; and the letter and statements were read, and ordered to lie for consideration.

The bill to amend and continue in force the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," was read the third time.

On the question, Shall this bill pass? it was determined unanimously in the affirmative—yeas 29, as follows:

YEAS—Messrs. Anderson, Bayard, Brent, Condit, Crawford, Franklin, Gaillard, German, Giles, Gilman, Goodrich, Gregg, Griswold, Hillhouse, Lambert, Leib, Lloyd, Mathewson, Meigs, Parker, Pickering, Pope,

Reed, Robinson, Smith of New York, Thruston, Turner, White, and Whiteside.

And the title having been amended; it was

Resolved, That this bill pass, and that the title thereof, be "An act to amend and continue in force certain parts of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain, and France, and their dependencies, and for other purposes.'"

TUESDAY, JUNE 20.

Mr. LEIB submitted the following motion:

Resolved, That a committee be appointed to inquire into the expediency of providing by law for the exclusion of foreign armed vessels from the ports and harbors of the United States, and that the committee have leave to report by bill.

The Senate resumed, as in Committee of the Whole, the bill to direct the sale of gunboats.

On motion, by Mr. REED,

Ordered, That the further consideration thereof be postponed until the first Monday in December next.

Mr. BRENT, from the committee to whom were referred the letter and report of B. H. Latrobe, reported a bill making an appropriation to finish and furnish the Senate Chamber, and for other purposes; and the bill was twice read by unanimous consent, and considered as in Committee of the Whole. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with the resolution of the Senate of the 19th instant, I transmit such information as has been received respecting exiles from Cuba, arrived or expected within the United States; also, a letter from General Turreau, connected with that subject.

JAMES MADISON.

JUNE 20, 1809.

The Message and papers were read, and referred to the committee appointed on the bill for the remission of certain penalties and forfeitures, and for other purposes, to consider and report thereon.

The bill to appropriate certain public ground in the City of Washington for the erection of public baths was read the third time; and, on motion to postpone the further consideration thereof until the first Monday of December next, it was determined in the affirmative—yeas 15, nays 13, as follows:

YEAS—Messrs. Anderson, Condit, Franklin, Gaillard, German, Gilman, Gregg, Griswold, Hillhouse, Lambert, Mathewson, Pickering, Robinson, Smith of New York, and Turner.

NAYS—Messrs. Bayard, Brent, Crawford, Giles, Goodrich, Leib, Lloyd, Meigs, Pope, Reed, Thruston, White, and Whiteside.

Mr. BRENT asked and obtained leave to bring in a bill supplementary to an act, entitled "An act authorizing the erection of a bridge over the river

JUNE, 1809.

Proceedings.

SENATE.

Potomac, within the District of Columbia;" and the bill was read, and passed to a second reading.

Mr. LLOYD gave notice that he should, to-morrow, ask leave to bring in a bill authorizing the accounting officers of the Treasury Department to give credit to certain collectors of customs for allowances paid by them to the owners and crews of fishing vessels.

Mr. FRANKLIN, from the committee, reported the bill making an appropriation to finish and furnish the Senate Chamber, and for other purposes, correctly engrossed; and the bill was read the third time by unanimous consent; and the blanks having been filled, 1st, "fifteen thousand," 2d, "sixteen hundred"—

Resolved, That this bill pass, and that the title thereof be "An act making appropriation to finish and furnish the Senate Chamber, and for other purposes."

WEDNESDAY, June 21.

Mr. GILES, from the committee to whom were referred the bill for the remission of certain penalties and forfeitures, and for other purposes, and the Message of the President of the United States respecting exiles from Cuba, reported the bill amended.

Ordered, That the consideration thereof be postponed until to-morrow.

The bill supplementary to an act, entitled "An act authorizing the erection of a bridge over the river Potomac, within the District of Columbia," was read the second time, and on motion, by Mr. LEIB, the further consideration thereof was postponed until the first Monday in December next.

Mr. LLOYD asked and obtained leave to bring in a bill authorizing the accounting officers of the Treasury Department to give credit to certain collectors of the customs for allowances paid by them to the owners and crews of fishing vessels; and the bill was twice read by unanimous consent, and referred to Messrs. LLOYD, LEIB, and ANDERSON, to consider and report thereon.

Mr. GERMAN presented the petition of John R. Murray and William Ogden, merchants, under the firm of John Murray and Sons, praying to be allowed the benefit of drawback on a quantity of Havana sugars exported, for reasons mentioned in their petition; which was read, and referred to Messrs. GERMAN, GREGG, and LLOYD, to consider and report thereon.

The Senate resumed the consideration of the motion submitted yesterday, that a committee be appointed to inquire into the expediency of providing by law for the exclusion of foreign armed vessels from the ports and harbors of the United States; and, on motion by Mr. REED to postpone the consideration thereof until the first Monday in December next, it was determined in the negative—yeas 9, nays 19, as follows:

YEAS—Messrs. Bayard, German, Gilman, Goodrich, Hillhouse, Lloyd, Pickering, Reed, and White.

NAYS—Messrs. Anderson, Brent, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Griswold, Lambert, Leib, Mathewson, Meigs, Parker, Pope, Robinson, Smith of New York, Turner, and Whiteside.

Resolved, That a committee be appointed to inquire into the expediency of providing by law for the exclusion of armed vessels from the ports and harbors of the United States; and that the committee have leave to report by bill.

Ordered, That Messrs. LEIB, CRAWFORD, GILES, ANDERSON, and POPE, be the committee.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the act, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt,' in which they request the concurrence of the Senate. The House of Representatives have passed a resolution for the appointment of a committee on their part, jointly with such committee as may be appointed on the part of the Senate, to have the direction of the money appropriated to purchase books for the use of the library of the United States.

The bill brought up for concurrence was read, and passed to the second reading.

The Senate proceeded to consider the resolution of the House of Representatives for the appointment of a committee to have the direction of the money appropriated to purchase books for the use of the library, and concurred therein; and Messrs. THURSTON, GILES, and GREGG, were appointed the committee.

The Senate resumed the consideration of the motion made the 16th instant; and,

Resolved, That the petition of Richard Bland Lee, presented at the last session of Congress, praying compensation for injuries committed on his property, near Harper's Ferry, by the officers and agents of the United States, be referred to the Secretary of War, to examine the allegations thereof, and report to the next session of Congress a special statement of facts thereon, particularly the extent and value of the trespasses alleged to have been committed, with his opinion thereon.

THURSDAY, June 22.

Mr. LLOYD, from the committee to whom was referred the bill authorizing the accounting officers of the Treasury Department to give credit to certain collectors of the customs for allowances paid by them to the owners and crews of fishing vessels, reported the bill without amendment.

The Senate proceeded to consider the bill as in Committee of the Whole, and no amendment having been proposed thereon, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The bill, entitled "An act supplementary to the act, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt,'" was read the second time, and referred to Messrs. LLOYD, ANDERSON, and CRAWFORD, to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the bill for the remission of certain penalties and forfeitures, and for other purposes; and the President having reported the bill to the

SENATE.

Foreign Armed Vessels.

JUNE, 1809.

House amended, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. FRANKLIN, from the committee, reported the bill correctly engrossed, and it was read the third time by unanimous consent, and the blank filled with "fifteen thousand."

Resolved, That this bill pass, and that the title thereof be "An act for the remission of certain penalties and forfeitures, and for other purposes."

Mr. FRANKLIN, from the committee, reported the bill authorizing the accounting officers of the Treasury Department to give credit to certain collectors of the customs for allowances paid by them to the owners and crews of fishing vessels, correctly engrossed; and the bill was read the third time by unanimous consent.

Resolved, That this bill pass, and that the title thereof be "An act authorizing the accounting officers of the Treasury Department to give credit to certain collectors of the customs for allowances paid by them to the owners and crews of fishing vessels."

Mr. POPE gave notice that he should to-morrow ask leave to bring in a bill freeing from postage all letters and packets from Thomas Jefferson.

A message from the House of Representatives informed the Senate that the House concur in the resolution empowering the President of the Senate, and Speaker of the House of Representatives, to adjourn their respective Houses on the 20th instant, with an amendment, to wit: to insert the 28th instead of the 20th, in which they request the concurrence of the Senate.

The Senate proceeded to consider the said amendment, and concurred therein.

Mr. LLOYD gave notice that he should to-morrow ask leave to bring in a bill to authorize the Secretary of the Treasury, in certain cases, to remit the penalties and forfeitures on vessels arriving in the United States from France, her colonies or dependencies.

FRIDAY, JUNE 23.

Mr. POPE gave notice that to-morrow he should ask leave to bring in a bill in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio.

Mr. POPE obtained leave to bring in a bill freeing from postage all letters and packets from Thomas Jefferson; and the bill was read, and passed to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for defraying the expense of stationery, printing, and all other contingent expenses of the Senate and House of Representatives, during the present session of Congress, and an additional appropriation for the purchase of books, maps, and charts, for the library of Congress;" also, a bill, entitled "An act concerning the Naval department;" in which bills they request the concurrence of the Senate.

The bills last mentioned were read, and passed to the second reading.

The bill, entitled "An act making appropriations for defraying the expense of stationery, printing, and all other contingent expenses of the Senate and House of Representatives, during the present session, and an additional appropriation for the purchase of books, maps, and charts, for the Library of Congress," was read the second time by unanimous consent, and referred to Messrs. FRANKLIN, GREGG, and GILES, to consider and report thereon.

The bill, entitled "An act concerning the Naval Establishment," was read the second time, by unanimous consent, and referred to Messrs. BAXARD, GILES, and LLOYD, to consider and report thereon.

Mr. LLOYD, from the committee to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt,'" reported amendments; which were read.

FOREIGN ARMED VESSELS.

Mr. LEIB, from the committee, appointed on the 20th instant, to inquire into the expediency of providing by law for the exclusion of foreign armed vessels from the ports and harbors of the United States, made report; which was read, as follows:

"That, in the opinion of this committee, such an interdiction is within the just and neutral rights of the United States, and, under other circumstances, would be highly expedient and proper. So long as a neutral nation shall confine itself to strict measures of impartiality, allowing no benefit to one belligerent, not stipulated by treaty, which it shall refuse to another, no cause whatever is afforded for exception or complaint. The right to admit an armed force into a neutral territory, belongs exclusively to the neutral; and when not guaranteed by treaty, as is oftentimes the case, such admission compromises the neutrality of the nation, which permits to one belligerent alone such an indulgence.

"As a measure of safety as well as peace, it is incumbent upon the United States to carry into effect such a provision. So long as we are without a competent force to protect our jurisdiction from violation, and our citizens from outrage, and our flag from insult, so long ought no asylum to be given, but in distress, to the armed vessels of any nation. The committee will not bring into view the many injuries and insults which the United States have sustained from the hospitable grant of their ports and harbors to belligerents; nor the facility which has thereby been afforded to them to lay our commerce under contribution. It is sufficient to remark, that great injuries have been sustained, and that imperious duty requires arrangements at our hands to guard our country in future from similar aggressions.

"The United States are, at this moment, under no obligation to withhold restraints, within their power, upon the admission of foreign armed vessels into their ports; but the committee are too strongly impressed with the propriety of avoiding any legislative interference at this time, which, by any possibility, might be

JUNE, 1809.

Proceedings.

SENATE.

construed into a desire to throw difficulties in the way of promised and pending negotiations. They are desirous that a fair experiment may be made to adjust our differences with the two belligerent nations, and that no provisions be interwoven in our laws which shall furnish a pretext for delay, or a refusal to yield to our just and honorable demands.

"Calculating that the overtures which have been made by Great Britain will be executed in good faith, the committee are willing to believe that the stipulated arrangements will be of such a character as to guard our flag from insult, our jurisdiction from aggression, our citizens from violation, and our mercantile property from spoliation. Under these impressions, which the committee have stated as briefly as possible, they beg leave to submit to the consideration of the Senate the following resolution, viz:

"Resolved, That the further consideration of the subject be postponed until the next session of Congress."

SATURDAY, June 24.

The bill freeing from postage all letters and packets from Thomas Jefferson was read the second time, and considered as in Committee of the Whole; and no amendment having been proposed, on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Mr. FRANKLIN, from the committee to whom was referred the bill, entitled "An act making appropriations for defraying the expense of stationery, printing, and all other contingent expenses of the Senate and House of Representatives, during the present session of Congress, and an additional appropriation for the purchase of books, maps, and charts, for the Library of Congress," reported an amendment to the bill.

On motion, by Mr. ANDERSON, to expunge the second section of the bill, as follows:

"And be it further enacted, That, in addition to the sum of one thousand dollars annually appropriated by the act of February twenty-one, one thousand eight hundred and six, for the term of five years thereafter ensuing, there be, and the same hereby is, appropriated, a further annual sum of four thousand dollars for the purchase of books, maps, and charts, for the Library of Congress, to be paid out of any moneys in the Treasury, not otherwise appropriated, to be expended under the direction of a joint committee of three members of the Senate and three members of the House of Representatives, to be appointed every session of Congress, during the continuance of this appropriation."

It was determined in the affirmative—yeas 17, nays 10, as follows:

YEAS—Messrs. Anderson, Condit, Franklin, German, Gregg, Lambert, Leib, Mathewson, Meigs, Parker, Pickering, Pope, Reed, Robinson, Smith of New York, Turner, and Whiteside.

NAYS—Messrs. Bayard, Crawford, Gaillard, Giles, Gilman, Goodrich, Hillhouse, Lloyd, Thruston, and White.

And the PRESIDENT reported the bill to the House as amended.

Ordered, That this bill pass to a third reading.

Mr. FRANKLIN reported the amendment cor-

rectly engrossed, and the bill was read the third time by unanimous consent, and the title amended.

Resolved, That this bill pass as amended.

The Senate resumed, as in Committee of the Whole, the amendment reported by the select committee to the bill, entitled "An act supplementary to the act, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt.'"

Ordered, That the further consideration thereof be postponed until Monday next.

Mr. FRANKLIN, from the committee, reported the bill freeing from postage all letters and packets from Thomas Jefferson, correctly engrossed; and the bill was read the third time by unanimous consent, and passed.

Mr. POPE asked and obtained leave to bring in a bill in addition to the "Act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio;" and the bill was read, and passed to the second reading.

MONDAY, June 26.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides; and the honorable ANDREW GREGG was elected.

Ordered, That the Secretary wait on the President of the United States, and acquaint him that the Senate have, in the absence of the Vice President, elected the honorable ANDREW GREGG President of the Senate *pro tempore*.

Ordered, That the Secretary make a like communication to the House of Representatives.

The Senate resumed, as in Committee of the Whole, the amendments reported by the select committee to the bill, entitled "An act supplementary to the act, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt;'" and the President reported to the House that the Committee of the Whole had disagreed to the said amendments, but that they had agreed to amend the bill.

On motion, by Mr. LLOYD, to add a new section to the bill, as follows:

"SEC. 2. And be it further enacted, That the Secretary of the Treasury be, and he is hereby, empowered, from and after the passing of this act, until the first day of January next ensuing, with the approbation of the President of the United States, to borrow, on the credit of the United States, a sum not exceeding three millions five hundred thousand dollars, whenever, in his opinion, it may be expedient to borrow said sum, or any part thereof, in order to provide for the expenses of Government. And that for the more fully carrying into effect the objects of this act, the same powers, regulations, and restrictions, which apply to loans made by the Commissioners of the Sinking Fund, under the tenth section of the act, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt,' be, and the same are hereby, vested in, and imposed on, the Secretary of the Treasury. And it shall be lawful for him to make any loan or loans hereby

SENATE.

Proceedings.

JUNE, 1809.

authorized of the Bank of the United States, anything in the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' to the contrary notwithstanding."

It was determined in the negative—yeas 3, nays 25, as follows:

YEAS—Messrs. Goodrich, Hillhouse, and Lloyd.

NAYS—Messrs. Anderson, Bayard, Brent, Condit, Crawford, Franklin, German, Giles, Gilman, Gregg, Griswold, Lambert, Leib, Mathewson, Meigs, Parker, Pickering, Pope, Reed, Robinson, Smith of New York, Thruston, Turner, White, and Whiteside.

On the question, Shall this bill pass to a third reading as amended? it was determined in the affirmative—yeas 18, nays 10, as follows:

YEAS—Messrs. Anderson, Brent, Condit, Franklin, Giles, Gregg, Griswold, Lambert, Leib, Mathewson, Meigs, Parker, Pope, Robinson, Smith of New York, Thruston, Turner, and Whiteside.

NAYS—Messrs. Bayard, Crawford, German, Gilman, Goodrich, Hillhouse, Lloyd, Pickering, Reed, and White.

Mr. BAYARD, from the committee to whom was referred the bill, entitled "An act concerning the Naval Establishment," reported the bill without amendment.

The Senate proceeded to consider the bill, as in Committee of the Whole, and no amendment having been proposed thereto, the bill was ordered to the third reading.

On motion, the bill was read the third time by unanimous consent, and passed.

The bill in addition to the "Act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," was read the second time, and considered as in Committee of the Whole; and the President having reported the bill to the House amended, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. GERMAN, from the committee to whom was referred the petition of John Murray and Sons, reported that the consideration thereof be postponed until the first Monday of December next; and the report was agreed to.

TUESDAY, June 27.

Mr. FRANKLIN, from the committee, reported the bill in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio, correctly engrossed; and the bill was read the third time, and passed.

The bill, entitled "An act supplementary to the act, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt,'" was read the third time as amended.

On motion, by Mr. HILLHOUSE, to postpone the further consideration thereof until the first Monday in November next, it was determined in the negative—yeas 9, nays 15, as follows:

YEAS—Messrs. Bayard, German, Gilman, Goodrich, Hillhouse, Lloyd, Pickering, Reed, and White.

NAYS—Messrs. Anderson, Brent, Condit, Franklin, Giles, Gregg, Griswold, Lambert, Meigs, Parker, Pope, Robinson, Smith of New York, Thruston, and Whiteside.

Ordered, That the further consideration of this bill be postponed until to-morrow.

WEDNESDAY, June 28.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to amend and continue in force certain parts of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,'" with amendments, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to amend and continue in force certain parts of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,'" and concurred therein.

The Senate resumed the third reading of the bill, entitled "An act supplementary to the act, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt.'"

On the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 17, nays 9, as follows:

YEAS—Messrs. Anderson, Brent, Condit, Franklin, Gaillard, Giles, Gregg, Lambert, Leib, Mathewson, Meigs, Parker, Pope, Robinson, Smith of New York, Turner, and Whiteside.

NAYS—Messrs. Bayard, Crawford, German, Gilman, Hillhouse, Lloyd, Pickering, Reed, and White.

Resolved, That this bill pass with amendments.

Mr. GAILLARD presented the petition of John Rinaldi, praying to be exonerated from the penalty of the act prohibiting the importation of slaves, for reasons mentioned in the petition; which was read.

The PRESIDENT laid before the Senate a letter from B. H. Latrobe, respecting arrangements in the new Senate Chamber; which was read.

On motion, by Mr. LLOYD,

Resolved, That a committee be appointed to take into consideration the letter of B. H. Latrobe, of this date, and to give such directions respecting the finishing of the new Senate Chamber as they may judge will best promote the convenience of the Senate; and

Ordered, That Messrs. LLOYD, THRUSTON, and ANDERSON, be the committee.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act to suspend for a limited time the recruiting service," with an amendment, in which they request the concurrence of the Senate. They have passed the bill, entitled "An act for the remission of certain penalties and forfeitures, and for other purposes," with amendments,

JUNE, 1809.

Adjournment.

SENATE.

in which they desire the concurrence of the Senate.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act to suspend for a limited time the recruiting service;" and concurred therein.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act for the remission of certain penalties and forfeitures, and for other purposes;" and concurred therein.

The Senate then adjourned to six o'clock this evening.

Six o'clock in the Evening.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act authorizing the discharge of Joseph Wilkinson, jun., from his imprisonment;" in which they request the concurrence of the Senate.

The bill brought up for concurrence was read three times by unanimous consent, and passed.

Resolved, That Messrs. POPE and BRENT be a committee on the part of the Senate, with such as the House of Representatives may join, to wait on the President of the United States, and notify him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn.

Ordered, That the Secretary acquaint the House of Representatives therewith, and request the appointment of a committee on their part.

A message from the House of Representatives informed the Senate that the House have appointed a committee on their part, to wait on the President of the United States, and notify him of the intended recess of Congress.

Mr. POPE, from the committee, reported that they had waited on the President of the United States, who informed them that he had no further communications to make to the two Houses of Congress.

On motion, by Mr. THRUSTON, that the Secretary of the Senate be authorized to pay, out of the contingent fund of this House, to Tobias Simpson, Elkanah Henley, and Henry Miller, the sum of twenty-five dollars each, in addition to their usual compensation: it was objected to by Mr. PICKERING, as against the rule.

A message from the House of Representatives informed the Senate that the House, having finished the business before them, are about to adjourn.

Ordered, That the Secretary inform the House of Representatives that the Senate, having finished the business before them, are about to adjourn.

The Secretary having performed that duty, the PRESIDENT adjourned the Senate, to meet on the fourth Monday of November.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE FIRST SESSION OF THE ELEVENTH CONGRESS, BEGUN AT THE CITY OF
WASHINGTON, MAY 22 1809.

MONDAY, May 22, 1809.

This being the day appointed by law for the meeting of the present session, the following members of the House of Representatives appeared, produced their credentials, and took their seats, to wit:

From New Hampshire—Daniel Blaisdell, John C. Chamberlain, William Hale, Nathaniel A. Haven, and James Wilson.

From Massachusetts—Ezekiel Bacon, William Baylies, Richard Cutts, William Ely, Gideon Gardner, Barzillai Gannett, Edward St. Loe Livermore, Benjamin Pickman, junior, Josiah Quincy, Ebenezer Seaver, William Stedman, Jabez Upham, Joseph B. Varnum, and Laban Wheaton.

From Rhode Island—Richard Jackson, junior, and Elisha R. Potter.

From Connecticut—Epaphroditus Champion, Samuel W. Dana, John Davenport, Jonathan O. Mosely, Timothy Pitkin, junior, Lewis B. Sturges, and Benjamin Tallmadge.

From Vermont—William Chamberlin, Martin Chittenden, Jonathan H. Hubbard, and Samuel Shaw.

From New York—James Emott, Jonathan Fisk, Barent Gardenier, Thomas R. Gold, Herman Knickerbacker, Robert Le Roy Livingston, John Nicholson, Peter B. Porter, Ebenezer Sage, Thomas Sammons, John Thompson, Uri Tracy, and Killian K. Van Rensselaer.

From New Jersey—Adam Boyd, James Cox, William Helms, Jacob Huffy, Thomas Newbold, and Henry Southard.

From Pennsylvania—William Anderson, David Bard, Robert Brown, William Crawford, William Findley, Robert Jenkins, Aaron Lyle, William Milnor, John Porter, John Rea, Matthias Richards, John Ross, George Smith, Samuel Smith, and Robert Whitehill.

From Maryland—John Brown, John Campbell, Charles Goldsborough, Philip B. Key, Alexander McKim, John Montgomery, Nicholas R. Moore, Roger Nelson, and Archibald Van Horn.

From Virginia—Burwell Bassett, William A. Burwell, Matthew Clay, John Dawson, John W. Eppes, James Breckenridge, Thomas Gholson, junior, Peterson Goodwyn, Edwin Gray, John G. Jackson, Walter

Jones, Joseph Lewis, junior, John Love, Thomas Newton, John Randolph, John Roane, Daniel Sheffey, John Smith, James Stephenson, and Jacob Swoope.

From North Carolina—Willis Alston, junior, James Cochran, Meshack Franklin, James Holland, Thomas Kenan, William Kennedy, Nathaniel Macon, Archibald McBride, Lemuel Sawyer, Richard Stanford, and John Stanley.

From South Carolina—Lemuel J. Alston, William Butler, Joseph Calhoun, Robert Marion, Thomas Moore, John Taylor, and Robert Witherspoon.

From Georgia—William W. Bibb, Howell Cobb, Dennis Smelt, and George M. Troup.

From Kentucky—Henry Crist, Joseph Desha, Benjamin Howard, Richard M. Johnson, Matthew Lyon, and Samuel McKee.

From Tennessee—Pleasant M. Miller, and John Rheas.

From Ohio—Jeremiah Morrow.

ELECTION OF SPEAKER, &c.

A quorum, consisting of a majority of the whole number, being present, the House proceeded, by ballot, to the choice of a Speaker.

Messrs. N. R. MOORE, CUTTS, and PORTER, were appointed tellers of the votes.

Mr. N. R. MOORE reported that the result of the ballot was, that there were—

For Joseph B. Varnum, 60; Nathaniel Macon, 36; Timothy Pitkin, junior, 20; Roger Nelson, 1; C. W. Goldsborough, 1; blank ballots, 2.

Mr. VARNUM having 60 votes, it was submitted to the decision of the House by the tellers whether the blank ballots could be considered as votes; if not, there being but 118 votes, Mr. VARNUM having 60, had a majority.

Mr. W. ALSTON conceived that there could be no doubt on the subject; that blank pieces of paper could not be considered as votes. He instanced the case which occurred in the famous balloting for President in the year 1801; at which time, after a number of ballotings, the State of Maryland, which was divided, gave in four blank votes, and thus decided the election.

Mr. MACON thought there could be no question on the subject; he also recollected the case of the Presidential election instanced by his colleague, and was of opinion that blank ballots could not be counted. He hoped that the gentleman from Massachusetts (Mr. VARNUM) would be conducted to the Chair.

Mr. RANDOLPH said this was no ordinary question which the House were about to determine, at the instance of his friend, (Mr. MACON,) in his opinion, in a very irregular manner; and Mr. R. said that he was certain, if his friend were not himself implicated in the question, he would have been one of the last men in the House to give such a decision against himself; but perhaps this was a peculiarity in his friend's character. Are we, gentlemen, (said Mr. R.) to have a Speaker of the House of Representatives without any election? The committee have not reported that one of the persons voted for had a majority of the whole number of votes given; on the contrary, they have expressly reported that no one had a majority. And will the House consent in this manner to choose a Speaker to preside over this body, and perhaps eventually over the destinies of this nation?—for perchance the Speaker might become President of the United States. With respect to the precedent in the case of the election of the President of the United States, there was not, he said, the smallest analogy between the two cases. What was that case? It was on a question whether or not there should exist in this country a Government, that this device had been used, after some forty or fifty ballotings. In order to give a President to the United States, certain gentlemen had thought proper not to vote at all. But, said Mr. R., is time now so precious? Is the Secretary of the President of the United States knocking at the door for admittance? Is the enemy at the gate? Is there not time, I beseech you, gentlemen, to proceed in the regular mode to the election of our officers? Or, shall we, to avoid the trouble of writing a name twice, establish a precedent, which, if established, may put an end to this Government, which is founded on the principle that the majority shall govern? Mr. R. said he was more free in expressing his ideas, because he believed that a second ballot would not affect the result; and he put it to his friend (Mr. MACON) to say whether he himself would consent to take the Chair on the vote of a minority. He said he knew him too well; he would not consent to it. He conceived that there was no question before the House, that they had not elected their Speaker; and that it was their business to proceed to an election. They were certainly competent, he said, to elect the officers of their own body; and he hoped they would do it *more majorum*—after the fashion of their ancestors.

Mr. STANFORD denied that the case which had been cited from the Presidential election in 1801 had any bearing on the present question. That was a case in which, a State being divided, one-half the representation voted blank, and left to the other half of the representation the right of

voting for the State. As, at the same time, a gentleman now from Kentucky, (Mr. LYON,) then the only representative present from Vermont, had, by his single vote, his colleague being absent, decided the vote of that State, he thought there was no analogy.

Mr. RANDOLPH moved that the House proceed to ballot a second time for Speaker.

The Clerk having put the question, it was carried—67 to 43.

Mr. MACON said he certainly felt a sense of gratitude towards those who had voted for him; but he should be obliged to them to vote for some other person. He had rather remain on the floor of the House than be placed in the Chair. He had experienced the difficulties of the situation; besides, by an illness during last winter, his lungs had been so affected that he did not feel himself adequate to the task. As his declining the situation might be unexpected to some gentlemen, to accommodate them he would ask a postponement of the ballot for a time. He considered the office of Speaker of the House as one of the most honorable in the nation. Perhaps none was more so, after that of President and Vice President. Notwithstanding this, were there a probability of his being chosen, he must decline being placed in the Chair.

Mr. STANFORD moved to postpone a further balloting until two o'clock—Negatived; six gentlemen only rising in the affirmative.

The House then proceeded to a further ballot; and Mr. N. R. MOORE reported the result to be:

For Mr. Varnum, 65; Mr. Macon, 45; Mr. Pitkin, 6; Mr. Howard, 1; Mr. Nelson, 1, and Mr. Goldsborough, 1.

Mr. VARNUM having a majority of votes was declared elected, and conducted to the Chair; whence he addressed the House as follows:

"Gentlemen of the House of Representatives:

"The continued manifestation of the national confidence in me, expressed by the Representatives of the people on this occasion, fills my heart with grateful sensibility. In obedience to the call of my country, I accept the office assigned me, and will endeavor to discharge the duties of it according to the best of my abilities, and agreeably to the wishes of the House."

The SPEAKER having been sworn, the oath to support the Constitution of the United States was by him administered to the members, by States.

The House then proceeded to the choice of a Clerk, by ballot. The votes having been counted, there were—

For Patrick Magruder, 63; Daniel Brent, 38; Nicholas B. Van Zandt, 14; William Lambert, 7, and Mr. Scott, 1.

Mr. Magruder having a majority of votes, was declared to be re-elected.

Mr. GEORGE POINDEXTER having appeared and produced his credentials, as the Delegate from the Mississippi Territory of the United States, the oath was administered to him by the Speaker.

Mr. MACON, from the joint committee appointed to wait on the President of the United States,

MAY, 1809.

Standing Committees.

H. OF R.

reported that the committee had performed the service assigned to them, and that the President signified that he would make a communication to Congress to-morrow at twelve o'clock.

A message was received from the Senate, informing the House that that body was formed, and ready to proceed to business; and that they had appointed a committee to wait on the President of the United States, in conjunction with such committee as the House should appoint, to inform him that they were ready to receive any communication he might have to make.

On motion of Mr. J. G. JACKSON, a committee was appointed to act with the committee of the Senate. Messrs. MACON and JACKSON were named as the committee.

On motion of Mr. HOLLAND, it was resolved, that the rules and orders of the House in existence at the last session, should be the rules and orders for the present session, until otherwise directed by the House.

The House, after hearing a memorial from Joseph Wheaton, stating his services, and praying a reinstatement in the office of Sergeant-at-Arms, from which he had been ejected, proceeded to the choice of a Sergeant-at-Arms. The whole number was 122, of which Thomas Dunn had 80. He was therefore declared to be re-elected.

On balloting for a Doorkeeper, the whole number of votes was 116, of which Thomas Claxton had 115. He was therefore declared re-elected.

On balloting for an Assistant Doorkeeper, there were—

For Benjamin Burch, 68; Jesse Edwards, 50.

Mr. Burch was therefore elected.

Mr. DAWSON.—Before we adjourn, it will be necessary to fix on some hour at which we shall meet; that hour heretofore has been eleven; but, as the mornings are now long, as some of the reasons which caused the present session have probably ceased, as the select committees will have but little to do, and every gentleman must be anxious to end the session and return home, I would prefer an earlier hour, and therefore offer the following resolution:

Resolved, That unless otherwise directed, the hour of meeting during the present session shall be at ten o'clock in the forenoon.

Agreed to, 52 to 39; and the House adjourned.

TUESDAY, May 23.

Several other members, to wit: From Massachusetts, SAMUEL TAGGART; from New York, VINCENT MATTHEWS; from Pennsylvania, DANIEL HEISTER; and from North Carolina, JOSEPH PEARSON; appeared, produced their credentials, were qualified, and took their seats.

The Journal of yesterday's proceedings having been read—

Mr. RANDOLPH moved to amend it, so as to record the precise state of the two ballots for a Speaker, with a view to a correct understanding of the case, if it should ever be drawn into precedent hereafter.

After a discussion of nearly two hours on the

subject of the decision of yesterday, and the analogy betwixt it and the case of the Presidential election of 1801, Mr. RANDOLPH's motion was agreed to—ayes 70.

The SPEAKER laid before the House several letters from the Governor of the State of Virginia, enclosing certificates of the election of the Representatives of that State in the Eleventh Congress of the United States.

Ordered, That the said certificates, together with the credentials of the members of the House from the several States and Territories, be referred to the Committee of Elections.

Resolved, That the Clerk of this House cause the members to be furnished, during the present session, with three newspapers to each member, such as the members, respectively, shall choose, to be delivered at their lodgings; and that if any member shall choose to take any newspaper other than a daily paper he shall be furnished with as many of such papers as shall not exceed the price of a daily paper.

The Message of the President of the United States was received, agreeably to the intimation given by the President yesterday to the committee appointed to wait on him. The Message having been read, was referred to a Committee of the whole House on the state of the Union, and 5,000 copies ordered to be printed of the Message, with the documents accompanying it. [See Senate proceedings of this date, *ante* page 11, for this Message.]

A message was received from the Senate proposing the appointment of two Chaplains of different denominations, to interchange weekly between the two Houses. The proposition was concurred in—ayes 81.

STANDING COMMITTEES.

Mr. W. ALSTON moved that the standing committees of the House, viz: the Committee of Ways and Means, Commerce and Manufactures, Public Lands, Claims, Elections, Revisal and Unfinished Business, and of the District of Columbia, be now appointed.

Mr. LYON moved to amend the motion by inserting at the end of it, the words "by ballot." The reasons which he assigned for this motion were, that the course proposed by it would be more respectful to the nation; and that the persons so appointed would feel a greater responsibility to the House. He declared that he should have made the same motion, had the person for whom he had voted been elected to the Chair—having no personal views in proposing it.

Mr. GARDENIER supported the motion. He was in favor of it on the principle of this Government, that the many ruled, in contradistinction to that of monarchical or aristocratical Governments, where one or a few bore sway. He thought it consistent with the republican mode of proceeding and thinking proper for this country, that on all practical occasions this rule should be regarded where the many were as competent as the few or the one, and without meaning the least disrespect to the present Speaker, he conceived

that the members of this House were as competent to choose their own organs as the Speaker, whoever might fill the Chair.

Mr. LYON's motion for amendment was negatived, by yeas and nays—67 to 41, as follows:

YEAS—Burwell Bassett, William W. Bibb, Daniel Blaisdell, John Campbell, John C. Chamberlain, William Chamberlin, Matthew Clay, Howell Cobb, James Cochran, John Dawson, James Emott, John W. Eppes, Barent Gardnier, Thomas R. Gold, Edwin Gray, Nathaniel A. Haven, Daniel Heister, James Holland, Robert Jenkins, Walter Jones, Thomas Kenan, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jun., Robert Le Roy Livingston, Matthew Lyon, Vincent Matthews, Archibald McBride, Pleasant M. Miller, William Milnor, Joseph Pearson, John Randolph Lemuel Sawyer, Daniel Sheffey, Samuel Smith, Richard Stanford, John Stanley, James Stephenson, Archibald Van Horn, Killian K. Van Rensselaer, and Laban Wheaton.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Adam Boyd, James Breckenridge, John Brown, William A. Burwell, William Butler, Joseph Calhoun, Epaphroditus Champion, James Cox, William Crawford, Henry Crist, Richard Cutts, Joseph Desha, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Peterson Goodwyn, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Robert Marion, Samuel McKee, John Montgomery, Thomas Moore, Jeremiah Morrow, Roger Nelson, Thomas Newbold, Thos. Newton, John Nicholson, Benjamin Pickman, jun., John Porter, Peter B. Porter, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, John Ross, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Samuel Shaw, George Smith, John Smith, Henry Southard, William Stedman, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson Uri Tracy, Robert Whitehill, and Robert Witherspoon.

Mr. MACON, in the course of some observations on the motion for appointing the standing committees, declared that he should vote for it under the impression that the House would at this time proceed on general business, and thus avoid a meeting in the winter, except the public service should particularly call for it. Such a course would be a saving of the public money, and also a convenience to the members of Congress. If it were intended merely to take up those subjects expressly recommended, he could not see the propriety of appointing the standing committees. He made a number of observations going to show that frequent and long sessions not only increased the public expense, but would prevent those who were best fitted for the public service, particularly in the Southern and Western States, from consenting to serve as Representatives. The Constitution, he said, had wisely provided that on any emergency Congress might be convened by proclamation. Without bringing into question the subject of confidence, every man must have sufficient confidence in the Executive to believe that he would convene Congress together if the pub-

lic service required it. He therefore was in favor of going through the unfinished business at this time, and intermitting the usual winter session, unless some extraordinary occasion should require the aid of Congress.

Mr. W. ALSTON said that for himself he was opposed to having a long session at this time, and yet he believed it would be necessary to appoint Committees of Ways and Means and of Commerce and Manufactures. He believed that the good of the nation required that Congress should not make a long session; for they were not possessed of sufficient information to act on several important questions. No one, however, would say that each one of these committees might not be wanted for the dispatch of business.

Mr. LYON was for going on with the business now. At this season of the year he said more business could be done in one month, than could be done in three months in the winter, when the days were so short, and gentlemen, instead of attending to business, were warming themselves at the fire.

Mr. ALSTON's motion for appointing the committees, was carried without a division.

Whereupon, the following standing Committees were appointed, viz.

Committee of Elections—Mr. FINDLEY, Mr. CLAY, Mr. STURGES, Mr. TROUP, Mr. TAYLOR, Mr. VAN RENSSELAER, and Mr. GANNETT.

Committee of Claims—Mr. JOHNSON, Mr. SEEVER, Mr. BUTLER, Mr. PITKIN, Mr. ROBERT BROWN, Mr. JONES, and Mr. STANLEY.

Committee of Commerce and Manufactures—Mr. NEWTON, Mr. DANA, Mr. MARION, Mr. CUTTS, Mr. MUMFORD, Mr. JOHN PORTER, and Mr. MCKIM.

Committee of Ways and Means—Mr. EPPES, Mr. WILLIS ALSTON, Mr. TALLMADGE, Mr. MONTGOMERY, Mr. BACON, Mr. REA of Pennsylvania, and Mr. HAVEN.

Committee on the Public Lands—Mr. MORROW, Mr. GOODWYN, Mr. BIBB, Mr. ELY, Mr. BOYD, Mr. HOWARD, and Mr. SAMMONS.

Committee of Revisal and Unfinished Business—Mr. SOUTHARD, Mr. RICHARD JACKSON, and Mr. SHAW.

Committee of Accounts—Mr. NICHOLAS R. MOORE, Mr. STEDMAN, and Mr. MILNOR.

Committee for the District of Columbia—Mr. LOVE, Mr. HOLLAND, Mr. VAN HORN, Mr. LEMUEL J. ALSTON, Mr. NEWBOLD, Mr. SAMUEL SMITH, and Mr. GARDENIER.

Committee on the Post Offices and Post Roads—Mr. RHEA of Tennessee, Mr. HELMS, Mr. THOMPSON, Mr. DESHA, Mr. KENAN, Mr. CALHOUN, Mr. SMELT, Mr. MORROW, Mr. DAVENPORT, Mr. CHITTENDEN, Mr. GOLDSBOROUGH, Mr. WHITEHILL, Mr. POTTER, Mr. JOHN SMITH, Mr. UPHAM, Mr. WILSON, and Mr. BARD.

WEDNESDAY, May 24.

Another member, to wit: GURDON S. MUMFORD, from New York, appeared, produced his credentials, was qualified, and took his seat.

MAY, 1809.

Reduction of the Army.

H. OF R.

A motion was made by Mr. JOHN G. JACKSON, to amend the Journal of yesterday, by inserting, after the reference of the Message from the President of the United States, the following order:

“Ordered, That five thousand copies of the said Message and documents be printed for the use of the members of Congress.”

And the question being taken thereupon, it was resolved in the affirmative.

Mr. BACON presented a petition of Charles Turner, junior, of the district of Plymouth, and State of Massachusetts, praying that William Baylies, one of the members returned to serve in this House for the State of Massachusetts, may be declared not duly elected, and that he may be admitted to a seat in the House as the Representative in the place of the said William Baylies, whose election and return he declares to be illegal.

Mr. BACON also presented a petition of sundry inhabitants of the said district of Plymouth, praying that the above named petitioner, Charles Turner, junior, may be admitted to his seat in the House, he being, in their opinion, fairly, legally, and constitutionally elected.—The petitions were referred to the Committee of Elections.

A message from the Senate informed the House that the Senate have elected the Reverend Mr. WILMER, Chaplain to Congress, on their part.

REDUCTION OF THE ARMY.

Mr. RANDOLPH said he rose for the purpose of making two motions, the nature and tendency of which he took occasion to explain. It would be perceived that, in his Message, the President of the United States had, with great delicacy and propriety, as it might be conceived, omitted giving any opinion on some of our important national concerns. But, from the silence observed, it might perhaps be inferred, that it was not similar to that which he trusted was the opinion of a majority of this House and of Congress. He said he alluded particularly to that part of the President's Message, in which he spoke on the subject of the late augmentation of our standing army. It would be recollected by many present, that, on a former occasion, a motion had been made in the House for the purpose of arming and equipping the whole body of the militia of the United States. It would also be recollected that the very limited appropriation of only two hundred thousand dollars made for that object, grew out of the very large appropriation made for this standing army and for gunboats—for at that time (the session before the last) the additional appropriation on account of the Navy had not been made. He believed that the people of the United States generally—he spoke particularly in reference to those whom he had the honor to represent—were not satisfied with the disposition at that time made of the public resources. He believed that they were not content, and never would be, to see a standing army fully equipped, armed, and disciplined, while the militia, our natural resource against internal as well as external enemies, remained unarmed and defenceless. I know, said he, that I speak the sentiments

of those whom I represent, and I have no cause to believe that it is not the general sentiment of the country; that the most popular act with which the present Administration could follow up the very popular measure which has so materially changed the state of the foreign relations of this country, would be to put down the standing army of the United States, and arm the militia. I know it, sir. And when I speak of putting down the standing army of the United States, I very well know how the general opinion is, nor do I presume myself to differ from that opinion, that we ought to have some regular force for garrisoning the posts on our frontier, and preventing collisions between our frontier settlers and the aboriginal savages. I feel myself, as it were, on the brink of opening a question, which, for the present, I will not touch. My idea is this, sir, that if ever we are to have a respectable regular force, we must, to use a phrase common in our new settled country, *begin again from the stump*. The old levy will not do. I believe that I have proofs in my possession of the fact, that the old army will not do. I speak particularly with reference to testimony taken down verbatim, of which I presume seven or eight literal copies are in possession of different gentlemen of different political persuasions—testimony before the grand jury at Richmond, which found a true bill against Aaron Burr, Herman Blannerhasset, &c., which testimony I never brought with me to this place till now, and which can be collated and compared by others. It will prove that the old army is rotten to the core; that it is not the safe depository of the sword of this nation; that intrigue and corruption had cankered it to the very heart. Under these circumstances, as we have raised another army, it is left to the wisdom of Congress to say which of the two it will put down. Mr. R. said he presumed it would be in the power of the House, if part of the army was to be disbanded, to retain such as were most trustworthy. He was not sufficiently conversant in military matters to decide that question. This much he knew, that it was in evidence before the grand jury at Richmond, and elsewhere, he believed, and the impression was produced by the evidence of the Commander-in-Chief and his witness, Dunbaugh, that one of the officers, viz: the person who commanded at Fort Massac, was the tool of Aaron Burr; and yet Mr. R. said he had subsequently seen an address—and he did not wish to make any charge against this person; he would not condemn him upon such testimony, much less unheard—an address from this very officer and others, approbatory of the conduct of the Commander-in-Chief; and he had seen this very officer appointed, he presumed with the approbation of the Commander-in-Chief, to a higher command. What were they to think of the Commander-in-Chief, when he came forward and stated what he believed, and fortified it by the testimony of a witness on whom he relied, going to prove that a particular officer was an accomplice of Aaron Burr; and when they saw that very officer putting his name to an address of ap-

H. OF R.

Reduction of the Army.

MAY, 1809.

probation to the Commander-in-Chief, and afterwards promoted in the Army? What could they conceive but that it was a commutation of so much solid pudding for so much empty praise? Again: Mr. R. said it had been in proof before that jury that the officer who had commanded at Chickasaw Bluff was so far implicated as to permit Aaron Burr to take arms from the public arsenal at that place for his expedition. The name of the officer he said he could not recollect. In short, he repeated again to the House, that if the grand jury had been governed by the impressions made upon them by the testimony laid before them, they would have been of opinion that scarcely a man in the Army was exempt. Even those who would not agree to file a bill against the Commander-in-Chief for misprision of treason, believed that though A or B might stand clear, there were few who were not the tools of the Commander-in-Chief or Aaron Burr, for the two were so closely identified through the transaction, that it was scarcely possible to separate them. The object of his first motion, then, was a reduction of the Army generally, which he should attempt, were he certain that every man, down to the meanest individual in that Army, was like Cæsar's wife, not only guiltless, but unsuspected. It had also for its object the giving an opportunity to the Government of the United States to separate the sound from the unsound part of the present Army, which might reduce it to the number at which it stood when the late President of the United States came into office.

The other motion which Mr. R. had to make, he said, was in relation to a subject to which he thought the attention of the House ought to be drawn. When the late Administration had come into power, it had been in quality of reformers. Their object was to sweep with the besom of scrutiny every part of this Government. He thought it due to the character of every administration that a scrutiny into its money transactions should take place. A motion on this subject, made at the first session of the seventh Congress, would be well recollected; and when Mr. Wolcott went out of office, Mr. R. said he believed that he had invited an inquiry into the state of the Treasury. Mr. R. said he should therefore move the following:

Resolved, That the troops raised under the act of the twelfth of April, one thousand eight hundred and eight, entitled "An act to raise, for a limited time, an additional military force," be immediately disbanded; and that the balance of appropriation remaining unexpended in relation to the same, and any balance of appropriation for gunboats which may remain unexpended, be applied towards arming and equipping the whole body of the Militia of the United States.

Resolved, That a committee be appointed to inquire and report whether moneys drawn from the Treasury since the third of March, one thousand eight hundred and one, have been faithfully applied to the objects for which they were appropriated, and whether the same have been regularly accounted for; and to report, likewise, whether any further arrangements are necessary to promote economy, enforce adherence to Legislative

restrictions, and secure the accountability of persons entrusted with public money.

The House agreed to consider these motions, by yeas and nays, unanimously—116 members voting.

Mr. EPPES suggested the propriety of the gentleman's modifying his first motion so as to meet the ideas expressed by himself, viz: that more confidence was to be placed in the new than in the old army. At present his resolution went to retain the old army and disband that in which he placed most confidence. He had rather have seen a general resolution that the Army should have been reduced to a certain number of men. Such a mode of procedure would give an opportunity of selecting those which were most proper to retain. As to the second resolution, Mr. E. conceived it to clash with the powers of the Committee of Ways and Means, whose duties he quoted from the rules of the House. The gentleman from Virginia cannot have forgotten that, in the year 1802, on this very subject, I submitted a resolution almost in the same words. He was at that time at the head of the Committee of Ways and Means, and my motion was opposed by him and overruled by the House on the ground that it was on a subject exclusively appropriated by the rules of the House to the Committee of Ways and Means. I assure the gentlemen, however, that though I would adhere to the rules of the House, yet were there any specified case of expenditure in which he supposed the laws had been violated and money improperly drawn, I should not have the slightest objection to the resolution taking that form, that he may have an opportunity of investigating the subject fully.

Mr. RANDOLPH said he felt himself called up by what had fallen from the gentleman on his right. He said he was not unapprized of the existence of the Committee of Ways and Means, whose duty it was to inquire into this subject; nor was he unapprized of the same fact at the time (the 14th December, 1801) when his friend from Maryland, (Mr. NICHOLSON,) then, but no longer—to his great regret and the detriment of the public—a member of this House, made a motion, from which the present was copied *verbatim*. I was then chairman of the Committee of Ways and Means, and yet saw no impropriety in the motion. With due deference to the gentleman from Virginia, and his memory too, I think he has not exactly recollected the motion which he made on a former occasion, and which he says was overruled. This, however, is but of little moment. I recollect perfectly well the gentleman's making a motion which did imply, if anything, a want of confidence in the Committee of Ways and Means, and that I opposed the motion on that ground. But I had thought, sir, that a precedent from the first session of the sixth Congress, the first under the late Presidency—that a precedent from those days would not be rejected in these. The Committee of Ways and Means were appointed on the 7th day of December. On the Monday following, one week after precisely, a motion was made by Mr. NICHOLSON

MAY, 1809.

Reduction of the Army.

H. OF R.

that a committee be appointed to inquire and report, &c. And it was ordered that Mr. N., and another gentleman, both, at the same time, members of the Committee of Ways and Means, should, with others, compose that committee. I am very unwell, sir; and will conclude what I have to say at this time by observing, that if the gentleman supposes me to be electioneering for the place of chairman of a committee, he is much mistaken. If I have ambition, it flies at nobler game. And, again: the state of my health, and particularly of my eyes, would unfit me from acting on any committee where much writing was necessary, even if I had interest enough with the Chair to be appointed on such a committee, for certainly I had contemplated, in case the SPEAKER should put me on either of the committees which I hope will grow out of my own motions, to request to be excused from serving, for it is a lamentable fact, that, while I was quoting the Journal a few minutes ago, I could scarcely see to read it. As to any particular instance of malversation of public money, I do not pretend to say that I know of none, because, at the last session, I recollect that I brought some such matters before the House. I certainly suspect others; and though I might act as an humble assistant to a committee to point their inquiries that way or the other, it would be impossible for me to undertake business where much writing was involved, and more especially where figures were necessary.

MR. EPPES said he was sorry, on this subject, to occupy the time of the House. He had only performed a duty in saying what had already fallen from him. The gentleman had stated the fact correctly, but he should have recollected that it was long after the adoption of Mr. NICHOLSON'S resolution that this duty had been especially assigned to the Committee of Ways and Means; it was not till after that famous investigating committee had made their report. As to any imputation or indirect attack on the motives of the gentleman from Virginia, I am above it. In my conduct in public and private life, it is always my wish, it always has been, and ever will be my wish, to extend to every one that civility which one gentleman owes to another. And I never have in these walls wounded the feelings of any man except circumstances justified it, nor ever will.

MR. RANDOLPH said he well recollected the time at which the alteration had been made in the rule for appointing a Committee of Ways and Means. But he asked, whether the rule was not before sufficiently broad to have enabled the Committee of Ways and Means to go into every research which the investigating motion pointed to? But again: Does the gentleman from Virginia remember, notwithstanding that very rule was quoted at the time he made his motion, he did pertinaciously persist in support of it, as the journals, I believe, will show? It is equally my desire, with the gentleman from Virginia, or any other, to avoid hurting the feelings of those with whom I have always the honor, and sometimes the pleasure, to act. But it will be recollected by

my colleague, (MR. EPPES,) that the state of things to which he alludes was materially different from the present. The committee of investigation, out of which this new rule for the Committee of Ways and Means grew, had made their report. The examination into the state of the departments was finished; the Augean stable was in a manner cleansed, and the task remaining to be performed was more within the compass of the powers of the Committee of Ways and Means, burdened as it is with other important business. Another thing I may be permitted to name without wounding the feelings of the gentleman from Virginia, certainly without intending to do so. The person who filled the chair of the Committee of Ways and Means, at that time, was not a person whom any considerations of delicacy could affect. I was not in the House this morning when the Journal was read, but I conceive the worthy gentleman from Virginia, (MR. EPPES,) to be the chairman of the present Committee of Ways and Means, because I saw a paper handed from the Clerk to him. I would ask him, sir, if I am not acting towards him with peculiar delicacy in raising another committee to investigate the transactions of an Administration with whom that gentleman was so intimately and so delicately connected?

A motion having been made to refer these resolutions to a Committee of the Whole—

MR. MAON said he could not see the object of referring the first motion at all. Where was the propriety of referring a motion for inquiring into a particular subject? He was in favor of the object of the motion, thinking it a good rule to establish, that, whenever a President went out of office, a committee should be appointed to investigate the money transactions of his Administration. When General WASHINGTON went out of office there was no such committee appointed; and, indeed, it might be admitted as truth that he was considered as an exception. No single individual thought of a scrutiny into his conduct; he was considered a man of all parties. When Mr. Adams went out, a committee was appointed to examine into the money transactions of his Administration. The time was come, MR. M. said, when a majority, holding the same principles as the Administration whose term of service has just expired, should inquire into its money transactions. Shall we not do to ourselves that which we did to others? I think it right in all cases to investigate; and when I say this, I feel no hesitation in saying that the nation will never be blessed with such another Administration as the last. When a man goes out of office, notwithstanding the existence of the Committee of Ways and Means, I would appoint a committee solely to that object. It is a sort of ordeal which every man ought to undergo. Some nation, of which I have read, had a law to try their chiefs after they were dead. When a man goes out of office he is politically dead; and I would establish it as a rule never to be departed from, that whenever a man went out of office, there should be an investigation into the money transactions con-

H. OF R.

Reduction of the Army.

MAY, 1809.

ducted by him. Could anything redound more to the honor of a former Chief Magistrate, when he is again a private citizen, than to have his money transactions brought into view, and for that branch of the Legislature which is particularly the guardian of public money to say, that he has deserved well of his country? And should the fact prove to be so, it would certainly add more to his reputation than anything which could be done while he was in office. I think it a custom which should never be departed from. I wish it were a part of the national Constitution. There is no such thing as a perfect man in creation. Every man is liable to error; intention only makes it criminal. I would have conduct scrutinized. But I cannot see the propriety of referring this motion to a committee in the first instance.

Mr. RANDOLPH varied his motion so as to move a concurrence in the second resolution proposed by him, and a reference of the first to a select committee, with leave to report by bill, or otherwise.

Mr. LYON said he was opposed to disbanding the Army. Though he had been opposed to raising so large an Army in the first instance, he was not for disbanding it at this moment. The people on the northwestern frontier, in the Territory of Indiana, were now alarmed for the safety of that country, and a regiment at least was necessary in that quarter. Should we, then, now disband the Army? He did not conceive that our foreign affairs were quite settled. Could they say that our Southern frontier was safe? That there was no danger there? It could not be said. He was pleased with the present peaceable aspect of affairs; but he had no idea that we ought to lay down our arms when the state of the whole world was as it now is. Thus much he would say to show that he was not to be carried away by a peace mania any more than a war mania.

Mr. J. G. JACKSON said it would be perceived from the Message of the President, that he had called the attention of Congress to the very subject of the first resolution offered by the gentleman from Virginia, in these words: "It will rest with the judgment of Congress to decide how far the change in our external prospects may authorize any modifications of the laws relating to the Army and Navy establishments." Inasmuch as a committee would be raised on the Message, and the House were to have a report on this subject from the War Department, without which they could not act understandingly, the motion he conceived to be premature. It narrowed the field of inquiry too much. There would be, if the motion were agreed to, one committee appointed particularly to inquire into the propriety of a reduction of the Army, and another committee to inquire generally into the subject of the Army. In relation to the second resolution, he had no objection to it, but that it proposed usurping powers already given to the Committee of Ways and Means.

Mr. RANDOLPH said that he possibly might not have understood the President's Message; but

unquestionably the President of the United States had not given any opinion on the subject of a reduction of the military force. Now, suppose the House were to go into a Committee of the Whole on the state of the Union, and the Message of the President was dissected *secundum artem*, cut up into various business for committees. How much would be referred to the committee to whom is referred "so much of the Message of the President of the United States as relates to our Military and Naval Establishments?" What would be before them? The President's opinion that the Army should be augmented, or diminished, or kept up? Nothing of that sort. He had said that he left it to Congress to determine what should be done with this matter. Where the President recommended any measure to Congress, it might be referred to a committee. Suppose the President had said something of this kind—"I forbear, gentlemen, to call your attention to any particular objects, relying on your patriotism to adopt such measures as shall conduce to the public weal." Would the House refer any particular part of it? No; and yet *quo ad* this subject, such was the late Message. When the President, at the session before the last, had called particularly for troops, which Mr. R. thought he had at one time done, the Message was referred to a committee, because it had an express object in view.

Mr. R. again mentioned the motion of Mr. EPPES, in 1802; and observed that the gentleman's recollection of it was correct. It is equally true (said he) that disagreeable consequences grew out of it—that my colleague persisted in saying his motion was proper, and I that it was improper; that he was for it, and I against it; and now I make this motion and vote for it, and he against it. If this prove anything, it is precisely that we have changed our opinions *quo ad hoc*, supposing the cases to be analogous. But they are not analogous. That period was not the era of a new Administration of the Government of this country. Sure I am that there existed no connexion between the then Executive and the chairman of the Committee of Ways and Means which renders it delicate in him to make a rigorous investigation, or which might be presumed to arrest the chairman of the committee in the rigorous discharge of his duty. I have no right to suppose, sir, that such is the case with the gentleman from Virginia. But let me ask him if an acquittal on his verdict would operate to the same extent on the public mind as if on that of any other person? I wish to be distinctly understood—it would be putting the reputation of the late Administration on that sort of game, which children call "cross I win, pile I lose"—because the Administration had nothing to gain by an investigation so conducted. My friend from North Carolina (Mr. MACON) differs from both of us, taking a middle course, as it were, between us. I agree perfectly with the gentleman from North Carolina as to one part of his declaration. Without the slightest disposition to create unpleasant sensations, to go back upon

MAY, 1809.

Reduction of the Army.

H. OF R.

the footsteps of the last four years, I do unequivocally say that I believe the country will never see such another Administration as the last; it had my hearty approbation for one half of its career—as to my opinion of the remainder of it, it has been no secret. The lean kine of Pharaoh devoured the fat kine; the last four years, with the embargo in their train, eat up the rich harvest of the first four; and if we had not had some Joseph to have stepped in and changed the state of things, what would have been now the condition of the country? I repeat it—never has there been any Administration which went out of office, and left the nation in a state so deplorable and calamitous as the last. And should I, having expressed this opinion, be afraid to express it now? Let us not look back sir; let the evil of the late Administration be buried with it—let its good deeds alone be inscribed on its monument. Let us look forward, and take especial care that no attempt to bolster up its dignity, to add lustre to its deeds, prevent us from acting with a single eye to the public good. As if no such Administration had existed, let us begin *de novo*. I do most cordially congratulate the nation on the change which has taken place, and I shall be willing, I trust, to co-operate in every measure let it come whence it will, which shall be for the public good. I am for putting down the standing army; for arming the militia; for ferreting out rats in the public departments. If this be done, it is immaterial by whom; and if faithfully performed, it is perfectly immaterial whether it be on a motion of myself or any other gentleman, or in any other way. Let us get the substance, and not be satisfied with the shadow. When I say that the saving from these two inordinate sources of expense (army and gunboats) shall be applied towards arming of the militia, do gentlemen suppose that I will be content to receive that for the full quota? No, sir; as one of the militia of the United States, I never will, so help me God! as a freeholder of Virginia, vote for any man, to any office, who will not arm every citizen in the nation capable of bearing arms. I consider, sir, that we have acted with a supineness disgraceful to a free people. We have been voting millions for standing armies, millions for gunboats, millions for a navy; and for arming the militia, we have voted two hundred thousand dollars, not twenty cents a head, to put a musket and bayonet into the hands of every man in the nation. If it be said—why do you not force them, as they do in the Eastern States, to arm themselves? My answer is this: If money can be wasted on standing armies, let us (even admitting it to be a waste) waste some on the owners of the soil, the real sovereigns of this country. We have been guilty, I repeat, of a supineness disgraceful to a free people, and I say it without imputation on this man or that man, this Administration, or that. The people who will consent to remain unarmed whilst arms are put into the hands of a standing army governed by martial law, and commanded, I will not say by whom, are ripe for a master. But our people are not ripe for it—it is their contempt

for military force, and that only, which has rendered them quiet. They feel the security of strength, not always the best reliance. But I will never rest as a member of this House, and when I cease to be a member as a freeholder, till I see the object accomplished, or in a fair way of being accomplished, of putting a musket into the hands of every man capable of bearing it. And then, sir, there will be no more alarms of invasions from Canada, of Colonel Burr on the Southern frontier, nor any alarm, unless indeed the people are their own worst enemies; nor any more of the use made of Colonel Burr, and that party. We shall have no more enforcing embargo laws, no more bills for suspending the writ of habeas corpus, no more new editions of the law of treason. The House of Hanover were called into Britain—for what? To make the nation free, to guard against popery, for that was the religious age, as this is the political; and no sooner was the House of Hanover placed on the throne, than by means of the Pope and the Pretender, the nation was bullied into acts which we all know led to the prostration of their liberties. In short, sir, I hope hereafter, to see questions tried on their own merit, and that, like naughty boys in a nursery, we shall not be frightened into measures by tales of the ascendancy of this or that party, or this or that man. For, in the course of my political experience, I have found but two parties in all States—the *ins* and *outs*; the *ins* desirous so to construe the charter of the Government as to give themselves the greatest possible degree of patronage and wealth; and the *outs* striving so to construe it as to circumscribe—what? Their own power? No, sir; their adversaries' power. But let the *outs* get in, and lay hold of the artillery of Government, and you will find their Constitutional scruples and arguments vanish like dew before the morning sun. No, sir; I have no faith in the declarations of parties, and, if we mean to guard the liberties of this State, we must watch the *ins*, be they who they may, be they Federalists, or be they Republicans. When I say we, sir, I speak of us, *the people*, who cannot be the *ins*, and thus are fair umpires both between the *ins* and the *outs*.

Mr. LYON did not believe that this first resolution would ultimately have any effect; but it would raise expectations in the nation that the Army was to be abandoned. Mr. L. said, we were not, upon a few favorable words coming from Great Britain, without any other atonement for the affair of the Chesapeake, to throw down our arms. He hoped the House would not agree to it. He was willing to agree to some modification of the Army, to make removals of such officers as had lost the confidence of the nation. He would make a reduction, but not in this way.

Mr. W. ALSTON said, the resolution respecting the Army certainly could not be acted upon until the report could be received which was mentioned in the Message of the President of the United States. The mode proposed for the disposition of the motion was irregular. He said it would be more like the House of Representatives to lay

it on the table till the Message had been taken up, and then to have referred it to the committee raised on that particular subject.

The question was taken on referring Mr. RANDOLPH's first resolution to a Committee of the Whole on the state of the Union, and carried, ayes 81. The question now being on concurrence in the second resolution—

Mr. EPPES moved so to amend it as to inquire into the application of all moneys under the late Administration. When up before, he had done what he conceived to be his duty; the House had assigned certain duties to committees, to which he thought it proper to adhere; but when we heard the gentleman from North Carolina suggest that this was a motion to pass in review all transactions of the former Administration, it impressed him very differently from what it had before done. If the gentleman was disposed to make such a motion, he should not take the very words of the rule establishing the Committee of Ways and Means; more especially there was no occasion for the latter part of the motion, which goes to the directing the committee to propose a plan which it was the express duty of the Committee of Ways and Means to inquire into. Mr. E. moved so to vary the motion as to make it a motion for the appointment of a committee to inquire how far moneys appropriated since the 4th of March, 1801, have been faithfully applied.

Mr. RANDOLPH consented to the modification, though it had not been his intention to have gone so far back.

Mr. MACON made a few remarks in addition to those which he had before made. He said that he differed totally from the gentleman from Virginia (Mr. RANDOLPH) on the subject of the embargo; and if this were the proper time to go into it, he thought he could convince even him of its wisdom.

Mr. J. G. JACKSON expressed his coincidence in the opinion that it was the duty of the House of Representatives to inquire rigorously into the disbursement of public moneys. He thought it was the duty of the House of Representatives to raise a committee every year to inquire into the subject, and thus to take evil by the forelock, if any existed.

Mr. TAYLOR said, he should not have risen but that the observations which had fallen from different gentlemen seemed to have looked everywhere but within the walls of the House. When, said he, we are about to inquire whether an Administration has done right or wrong, whether money appropriated has been honestly applied to the purposes for which it is appropriated, we seem to have forgotten that we also have to look into our own conduct, to review especially, according to the powers vested in the Committee of Ways and Means, their acts. We are about to inquire not only into the conduct of the Administration proper, the Executive and Heads of Departments, but also whether the committee of this House having the care of money concerns have done their duty. I like the motion the better for it. I am unwilling to institute a stricter scrutiny into

the conduct of the other departments than of our own; and if the rat-catchers of former sessions have not caught the animals, we will turn in and not only ferret out the rats, but hunt the lazy cats who let them live. Mr. T. said, he felt no hesitation in going into the investigation and cleansing the Augean stable, as it had been styled; and it was principally to draw off the attention of the House from the individuality which seemed to be attached to the inquiry, that he had risen. He was the more willing to adopt it, because it had been a course usually adopted to appoint on such a committee, gentlemen of different political opinions, the *ins* and the *outs*; those willing to keep in, and those willing to drive them out and take their places. It is due to ourselves, said he, to do to ourselves what we did to others on a former occasion; and I am therefore gratified that the motion is made.

Mr. RANDOLPH said, he could assure the gentleman from South Carolina, that when he drew up the resolution, he was aware of its bearings; and that he was willing to endure any judgment that a fair trial under the resolution should lead to. He was sorry to have excited so much feeling on this occasion; he did not mean it—it arose perhaps from a defect in his nature that would not permit him to suppress his ideas. He explained the epithet of "rats" to have been one which some years ago was applied, in the newspapers and elsewhere, to public defaulters. But since that time he had heard nothing of defaulters, but from those papers, he had nearly said persons, who were the friends of the *rats* of that day. I felt the full force of my motion, said Mr. R.; and does the gentleman think that it might not, in addition to other considerations, have influenced my opinion when I declined being considered as chairman of the committee. If I have acted the part of a *lazy cat*, I am willing to suffer. Whatever may be brought against the Committee of Ways and Means, or whatever may be said of their inertness, certainly nothing of wilful misdeed can be charged upon them; and there is a wide difference, as I understand, between a Committee of this House failing in its duty to make a thorough investigation into the conduct of the officers of the Government and the misdeeds committed by those officers—the one being an act of omission or carelessness, and the other of wilful wrong. In all instances, in my recollection, where the public money was improperly applied, the committee did execute their duty; I believe they were suspected of an intention to execute it too harshly. The subcommittee of accounts of this House was a committee instituted at their suggestion, to guard expenditures, because their other duties would not permit the Committee of Ways and Means to pay sufficient attention to it. Mr. R. said, that the proposed investigation would apply to the expenditures of this and the other House as well as to the expenditures of the officers of the Government—to the contingent expenses particularly. The late President of the United States, said Mr. R.—it would give me pleasure to do any man jus-

MAY, 1809.

Swedish and Portuguese Vessels—Non-Intercourse.

H. OF R.

tice, and more especially him—I will do him the justice to say that it was not his fault that reforms were not pushed farther—that an investigation was not made, not only into the expenditures of this, but of all the other departments of the Government. I speak of contingent expenses. He came into this Government the friend of reform and economy, and continued to practise economy as much as any man could who had the command of a fleet of gunboats, a standing army, and resources cut off by an embargo. And, sir, though this is not the time, and I hope not the place, to take up the gauntlet thrown down by my friend from North Carolina (Mr. MACON) on the embargo question—[Mr. MACON said, he certainly understood the gentleman from Virginia to have thrown the gauntlet first.] Since I see my friend before me, continued Mr. R., I call upon him (Mr. MACON) to say that it was not the late President's fault that reforms were not made, and that he commented with extraordinary severity on the contingent expenses of the two Houses of Congress; to which I trust the attention of the proposed committee will be drawn.

The question was then taken on Mr. RANDOLPH's second resolution, as amended, on motion of Mr. EPPES, and carried unanimously, one hundred and twenty-four members voting.

After the resolution had been agreed to, it appeared from some observations made by Messrs. EPPES and JACKSON, that they had understood, in voting for the motion, that the last clause of the resolution had been stricken out. This not having been done, Mr. J. G. JACKSON moved to reconsider the resolution for the purpose of amending it. After some debate, the House agreed to reconsider it, 55 to 53; but before the proposed amendment could be made, a motion made by Mr. NELSON to adjourn, was carried, 65 to 43.

THURSDAY, May 25.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting a report of the state and disposition, at this time, of the vessels belonging to the Navy of the United States, and of the gunboats; which were read, and ordered to lie on the table.

Mr. NELSON presented a memorial of the manufacturers of hats residing in Fredericktown, State of Maryland, praying that an additional duty may be laid on the importation of hats of foreign manufacture, or that the importation thereof may be entirely prohibited.—Referred to the Committee of Commerce and Manufactures.

Mr. FINDLEY presented a memorial of Arthur St. Clair, a Major General in the Army of the United States, during the Revolutionary War with Great Britain, praying the reimbursement of a sum of money advanced by him on public account, in the year one thousand seven hundred and seventy-six, for the purpose of re-enlisting the troops then in service in the Northern Department, in order to form the permanent army then organizing agreeably to a resolution of Congress. Referred to the Committee of Claims.

SWEDISH AND PORTUGUESE VESSELS.

Mr. NEWTON offered a resolution to instruct the Committee of Commerce and Manufactures to inquire into and report on the expediency of permitting vessels of those nations with whom intercourse was permitted, to take cargoes, &c. He stated to the House that at present vessels of Sweden and Portugal, with whom intercourse is permitted, could not load and depart; and on this subject a letter was read from the Secretary of the Treasury to the Committee of Commerce and Manufactures.

Mr. BURWELL said there was another subject connected with the resolution, which ought to be taken into consideration. The proclamation of the President declares that on the 10th of June next, the operation of the non-intercourse law, as relates to Great Britain, shall cease. It went into operation on the 20th of this month. Of course there were many vessels on the coast which could not get in before the 20th of May. He submitted it to the Chairman of the Committee, whether it would not be proper at once to do away all restriction, because the policy of its existence had ceased in relation to Great Britain from the restoration of harmony with her; and if the goods on our coast were not permitted to be regularly landed, they might be smuggled in, and injure the revenue. He thought it would be proper to inquire into the expediency of doing away at once, by law, all interdiction of commerce.

Mr. NEWTON said he had no objection to act on the subject mentioned by his colleague, but he did not conceive it to be connected with the present motion.

Mr. NEWTON's motion having been agreed to, he immediately reported "a bill respecting the ships or vessels owned by citizens of foreign nations with whom commercial intercourse is permitted."—Twice read, and referred to a Committee of the whole House to-morrow.

NON-INTERCOURSE ACT.

Mr. LIVERMORE said that he did not distinctly hear all that fell from the gentleman from Virginia, (Mr. BURWELL,) but, from what he had heard, he apprehended that it was on a subject of great importance. There were many vessels on the coast, which, were they to enter our harbors, would fall within the description of the 4th, 5th, and 6th sections of the non-intercourse act. From the happy commencement of the settlement of our differences with Great Britain, he did not believe it was the design of any gentleman that the non-intercourse should be enforced in this particular. He therefore offered a resolution for suspending the act, as follows:

Resolved, That it is expedient that the operation of so much of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies," as inhibits the importation of goods from Great Britain and its dependencies, be suspended until the tenth day of June next.

The said resolution was read, and referred to the Committee of Commerce and Manufactures, with leave to report thereon, by bill or otherwise.

DOCTRINE OF LIBELS.

Mr. RANDOLPH said, that among the various topics of difference between the two great contending parties in the United States, during the Administration of Mr. Adams, there had been none perhaps of greater magnitude in the public estimation than a celebrated act commonly called the Sedition Act; and there had been none perhaps which had more tended to the downfall and overthrow of the Administration under which it was enacted. The question then made by the people of the United States was not whether that law contained a good law of libel or not; whether that clause of the Constitution, contained in one of its amendments, declaring that Congress should make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, did not completely foreclose Congress, and preclude them from legislating on the subject at all. And, said he, by a very great body of the American people, as I understand, a verdict has been given that Congress do not possess the right of passing any act on this subject whatever; and I trust and believe that there will never exist another Congress which will have the temerity and hardihood to meddle with the rights of the people and the States on this point. There are some of us, sir, who were members of the House of Representatives at the time the law in question expired. I well recollect, and probably you do also, Mr. Speaker, the very splendid and beautiful declamation with which a member at that time from South Carolina (Mr. HARPER) exhorted the majority of this House to re-enact that law, on the ground that it would be a shield and protection to them, as going out of power, against their adversaries, into whose hands power was about to be transferred, as the sedition law would allow them to give the truth in evidence, and the common law does not. And he then foretold, what I confess I listened to with the most perfect incredulity, that prosecutions for libel would be commenced and carried on in the courts of the United States at common law. Sir, I was not only incredulous myself at that moment, but had the uncharitableness to think that the gentleman himself did not believe in the opinion which he advanced. I believed it impossible for an Administration coming into power on the terms on which the last did, ever to sanction a prosecution at common law for a libel where the truth could not be given in evidence. The doctrine contended for by the Federal party, and ably supported by a member, (Mr. BAYARD,) who is now translated to the other House, that the common law of England is the law of the United States, was a doctrine more abhorrent, if possible, to the feelings of the Republican party in the United States, than the law itself. For if the sedition law was objectionable because it established a law of libel which permitted the

truth to be given in evidence, *a fortiori*, the common law doctrine was more so, which not only established a law of libel the more hideous, because the truth was not permitted to be given in evidence, but established the whole system of penal laws in the British books which might be found in relation to the subject. Accordingly, the best pens and the ablest minds in the party to which you and I had the honor to belong, were employed in attempting to refute the heresy and against the sedition law. It is unnecessary to call to your recollection the writings of Hor-tensius, the resolutions of Colonel John Taylor, of Caroline, and the still more illustrious report of the present Chief Magistrate, going to explode the doctrine by irresistible arguments. To this succeeded a tract by a gentleman of no obscure fame, who has rendered himself somewhat conspicuous as a law character by his commentaries on that great commentator, Sir William Blackstone, still going to show that the common law of England was not the law of the United States; that, although it has been adopted by the several States with various modifications, it is no further law than as they have adopted it, and under the limitations made to it by each State; but that as a law of the United States in their federal capacity, it has no validity—since, if it had, of the different common laws in the United States, which should we adopt? Or should we take the common law of England, of a monarchy, founded upon an hereditary nobility, and a great hierarchy, unsuited to the genius of a republican Government? But, sir, such unhappily is the difference between men out of power, and men in power, that, if we are to believe the representations made at the last session of Congress, by a member from Connecticut, (Mr. DANA,) the correctness of which I presume no man would have the hardihood to doubt, prosecutions for libels at common law have been entertained in the courts of the United States against citizens, and consequently have been carried on by the attorneys for the districts wherein such prosecutions commenced. Yes, sir, such is the difference between men in power and men out of power; such the difference between profession and practice; and yet, to my infinite surprise, this awful truth—this fact—which never came to my knowledge before, appeared scarcely to excite a sensation either in this assembly or the public—in the men who were most clamorous against the sedition law. Yes, sir, we did execrate, and most justly execrate, the sedition law. I for one had as thorough a contempt for some of those who fell under its penalties, as the judge who inflicted them. The question was not whether James Thompson Callender was not an infamous libeller, any more than the famous Middlesex question was, whether John Wilkes was an infamous character; but it was a question as to the deprivation of the birthright of the citizen in one case, and the subject in the other, and the people wisely discriminated between the persons who were the subjects of prosecution, and their own best and dearest interests. We said that Con-

MAY, 1809.

Doctrine of Libels.

H. OF R.

gress had no right to pass any law at all on the subject. It cannot be denied, that if we are to have a federal law of libel, that which permits the truth to be given in evidence is as good as any. It was not to the nature of the law that we objected, but to the having a federal law of libel at all; though indeed, sir, the permission to give the truth in evidence is but an idle mockery when we consider that the officer, whose duty it is to provide an impartial jury, is but the breath of the nostrils of the prosecutor. You ought to recollect that in all cases where the Government becomes a party, whether *pro* or *con*, you too often have an administration of politics, instead of an administration of law and justice. It is true, that the Constitution does declare that Congress shall make no law abridging the freedom of speech or of the press; but if Congress, or the courts below, can at once saddle us with the common law of England, there is no necessity for prohibiting the abridgement of the freedom of speech, or of the press. We know what the common law of England is—an unlimited license to print, and an almost equally unlimited license to punish. This restriction of the Constitution, therefore, is wholly nugatory, if the courts are permitted to entertain prosecutions for libels. Sir, that the present Chief Magistrate of the United States should permit an attorney of the United States to hold his office one second after having commenced a prosecution in a court of common law for libel, is what I will not believe, for he could not do it without libelling, by that act of omission, the fairest page of the history of his own life, to wit: his celebrated report made in the session of the Virginia Assembly, which commenced in December, 1799. But I am willing to have some better security than the disposition of any Executive, for what I conceive one of the highest, proudest attributes of American freemen. I know it may be said, as it once was, when the writ of *habeas corpus* was set at defiance, that forasmuch as the right is contained in the Constitution and supported by it, all legislative provision on that subject would be a mere work of supererogation; and yet, sir, who has heard of any recovery under the Constitution for the violation of the best, dearest, most invaluable right of a citizen? In fact, take away the writ of *habeas corpus* to-morrow, and I would not give a pinch of snuff for our Constitution, for without it, every man may be imprisoned at pleasure. Government might possibly demand a forced loan, with which, if the citizen did not comply, he might be carried to jail. There is no free government where this wonderful contrivance, this best hope of man, this sheet-anchor of freedom, the writ of *habeas corpus*, is not found. And yet we may be told that, as the freedom of the speech and press is secured by the Constitution, all legislative provision on the subject is not merely superfluous, but not respectful to the Constitution; and so our citizens are to go on to be prosecuted at common law, and when they get no remedy, they are told their rights are guaranteed by the Constitution, but receive no satisfac-

tion. I therefore think it would be a very wise provision on our part, at this time, to prevent a recurrence of similar cases, guarding against the future by woeful experience, a school in which it is said a fool himself must learn; although he will learn in no other; and, as far as that epithet may be considered as applying to myself, I do most candidly confess that I have been compelled to learn from this school; for when the gentleman from South Carolina uttered that brilliant declamation in order to induce this House to reenact the sedition law, and hang it over their heads as a shield from prosecution, I really thought it a mere speech for the people, for I had no conception that a court of the United States would ever entertain a prosecution for libel at common law. I therefore submit to you the following resolution, premising, before I conclude, that my object will be, finding the Constitution inert on this subject, as it only contains an acknowledgment of the right to administer wholesome fine and imprisonment to those who shall hereafter undertake to carry on such prosecutions:

Resolved, That a committee be appointed to inquire whether any and what prosecutions have been entertained by the courts of the United States for libels at common law, and to report such provisions as in their opinion may be necessary for securing the freedom of speech and of the press.

Mr. DANA said perhaps that the resolution, as now expressed, did not go to the whole extent to which the gentleman intended. That prosecutions had been instituted for supposed slanders or for supposed seditious words, was unquestionable. For two, three, or four years past, prosecutions of this character had been pending in the circuit court of the United States, in the district of Connecticut. That some of the prosecutions attempted to establish the imputation of crime against individuals, and in cases not comprehended under the provisions of the statute so much reprobated under the name of the sedition act, was unquestionable. Prior to the institution of these prosecutions, however, from an apprehension of what might be done by men who had professed much zeal for liberty, but not in practice given stronger instances of regard for it than those who professed less, in the State of Connecticut a bill was introduced into the Legislature for securing the freedom of the press. That bill consisted of one section, which was copied from the reprobated sedition act—that very section which provided that the truth should be given in evidence; and it was called an act for securing the freedom of the press. And before any prosecutions were instituted, when only a district judge presided in the court, that judge declared that he should consider the act of the State of Connecticut relative to giving the truth in evidence, as binding on the Federal court in that State. This was the opinion of one judge; there was some question how it would be ultimately decided before a full court. Such a law formed a more abundant protection against any persecution which might be directed against individuals under the form of a prosecution, than any pro-

H. OF R.

Doctrine of Libels.

MAY, 1809.

fessions whatever. In the State of Connecticut, said Mr. D., there is one further security: that our jurors are designated by lot. The names of freeholders selected by certain officers in the towns are put into a box, and then selected by lot. There have been seven or eight prosecutions commenced, I scarcely know for what, whether for libellous or seditious words, against clergymen and public preachers, for words uttered by them; and very considerable expenses have been incurred by them. But I cannot say that any man ever suffered any further than this; that they were at a very great expense in defending themselves. They had a great security in one respect: that the talents of the bar were against these prosecutions; and there was such a peculiar talent of going backwards in the prosecution, that the suits generally went out of court with a *nolle prosequi*, from some error in the indictment, some defect in professional skill, or some error in clerkship. The only case in which there seemed to be any possibility of conviction, was one in which a question was made as to the power of the court to take cognizance of the subject. The question was on the prosecution of a printer there, for publishing what had appeared with perfect safety in another State. The judges declared themselves divided in opinion on the question of jurisdiction. That diversity of opinion was certified, and the question expected to be brought before the Supreme Court last February. On applying to the judge, I found that the clerk of the circuit court had not forwarded the certificate, and of course the case did not come up here as expected. I suppose that the whole thing will die without any noise. Another reason why the persons in Connecticut were not disposed to make very much noise about it while prosecutions were depending, was, that the State was not a large one; that it could not be supposed to be in great favor at the palace. It was supposed, sir, (whether correctly or not I will not undertake to say, but I rather incline to the opinion that it was an erroneous supposition) considering the manner in which appointments were made in that State, and under the belief that it was through the means of certain influential characters, that the District Attorney did institute those prosecutions with the approbation of the Administration of the United States. This was an opinion in the State; and, supposing the influence of the Executive to be exerted, they felt that it would be in vain to make much clamor, and rather chose to contend alone against it. As the prosecutions are now at an end, I think it very desirable that the subject should be investigated. As respects the District Attorney's not being removed, I do not think that he is much to be censured in this case. I am not certain that he acted altogether on his own opinion; I rather suppose that he was impelled by the influence of certain persons who are generally supposed to have the chief weight in appointments under the United States in that State, and who are therefore by some called the *council of appointment*; and I suppose that the District

Attorney could scarcely oppose the will and pleasure of these gentlemen. I very much question, therefore, whether any peculiar degree of fault is to be attributed to him, except his putting the United States to so much expense without ever bringing the question to a decision. This, sir, is about the general state of the business. As it cannot be said that the court has in fact *entertained* the prosecutions, and some of them have been dismissed, the substitution of the word *instituted* instead of *entertained*, may accomplish the gentleman's wishes.

Mr. RANDOLPH consented to the amendment.

Mr. BACON said he was, for one, by no means displeased with the introduction of the motion of the gentleman from Virginia. He took occasion to remark that it was with some pain that he perceived any remaining particles of this political heresy in any part of our country. He was happy that there were so few remnants. He had known of no instances, except those mentioned by the gentleman from Connecticut. He could not account for their appearance in that State only; whether it was because this doctrine of common law jurisdiction in the courts of the United States was there planted in a more congenial soil, he could not say. Certain it was, it had not pervaded any other State in the Union. I have understood, said Mr. B., that it is not through the peculiar instrumentality of the District Attorney that these suits were commenced. As I understand it, the District Attorney has no power to entertain suits; that he has no power but to reduce to form indictments of the grand jury. It is certainly the case in the State in which I am a Representative, and, I presume, in Connecticut also. It is a mere clerical office to reduce to form presentments of the grand jury. With respect to the courts, I understand that the question was first brought before the district judge of Connecticut. Whatsoever was his opinion, he said he considered the law as settled by his betters, by the judges of the Supreme Court; and he did not consider it incumbent on him to reverse that opinion until it should be done by a court of equal authority, leaving the question, however, open to appeal by the parties. I will only observe that I am very happy this motion is brought forward, and hope that, as we succeeded in getting rid of the sedition law, we shall get rid of all the political heresies of former times, and shall succeed in rooting out this obnoxious weed from the territory of Connecticut.

Mr. RANDOLPH observed, that he had understood, long ago, that prosecutions of this sort had been entertained in the federal courts, under the administration of Mr. Adams; and he had been one of those who had supposed that when that administration had been turned out of office, and a new one inducted, there would be an end, substantially, of these prosecutions at common law, as much as of the sedition law, although on the vote, whether the sedition law should be engrossed for a third reading on its proposed re-enactment, there was only a majority of three or four in the negative. During the prosecution of Mr.

MAY, 1809.

Doctrine of Libels.

H. OF R.

Chase before the Senate, said Mr. R., I had a paper put into my hands by a member of that honorable House, stating that a Judge of the Supreme Court of the United States, and one who, I believe, is considered an ornament to his profession, even with all his political heresies thick upon him, had entertained a prosecution for a libel at common law in the district of Vermont, and stated that such was the law as settled by the Supreme Court of the United States. I could not tell for what purpose this paper was put into my hands, unless under the idea that it would induce me to bring forward a motion for the impeachment of the gentleman in question. It was no business of mine that this was done by one of the persons sworn to judge the case of impeachment, if instituted—every man is the keeper of his own conscience. Neither was it my desire to divert the public mind from the steady view of justice in relation to the gentleman then under prosecution by bringing any other before the House; nor did I know, nor do I now know that the opinion that the common law is the law of the United States, is an unpardonable offence; because you may have heard gentlemen of the first legal erudition on this floor, support the doctrine. I allude particularly to a late member from the State of Delaware (Mr. Bayard.) But my object in making this motion was to go back to the institution of the Government itself, and bring into view every case in which prosecutions at common law for libel had been entertained by the courts of the United States, by way of showing the necessity of providing some legal provision on this subject. The gentleman from Massachusetts, with his usual accuracy, has declared that the District Attorney is but the instrument of the grand jury. But, sir, the grand jury is selected by the Marshal, and the Marshal and the District Attorney are appointed—how? Removable—how? I am perfectly convinced, sir, that, in all cases of libel, in all cases where, too often, politics and not law or justice preside, it is idle to expect impartiality of trial. If the Government or judge take part for or against a prosecution, it is perfectly idle to expect justice. To guard against evil, I hold, sir, in my hand a resolution, which, if the House agree to that which is under consideration, I shall lay on the table:

“Resolved, That provision ought to be made by law to secure the right of an impartial jury, in all cases, civil and criminal, maintained in the courts of the United States.”

But, before I sit down, I will make one observation on what has fallen from the gentleman from Connecticut. He says he feels no disposition to censure the District Attorney. I am happy to say that I know not the District Attorney, his name, or person. I am equally ignorant of the name or person of the district judge; nor do I know that I am acquainted with the circuit judge. On this subject, I am happy to be ignorant, because I am sure that I am in a better state to act impartially than if I were acquainted with his person or politics; for, whatever may be said of an unbiassed mind, human nature will have its way. Whether

the Attorney General be blame-worthy or not, will depend much upon the fact whether he held these opinions anterior or posterior to his induction into office. If he was one of the federalists of the old school, if he was an Essex man, and held that the common law was supreme, I cannot blame him for executing his duty. But if he was one of those who held up his hands against that doctrine, and protested against the men who supported it, then, I say, that he is blameable—for I will not acknowledge the right of any man to make a commutation of principles and the good of this country for his office; or that he is bound by the instructions of his superior to do that which he conceives illegal, unconstitutional, and unjust. As an honest man, he would give up his office rather than his principle. And, I trust, sir, that we live in a state of society in which a man acting in that manner will always meet with confidence and support.

Mr. LIVERMORE said that, for his own part, he had no idea that a District Attorney was the mere officer of a grand jury, or in any way dependent on the grand jury. He was an officer as independent of the grand jury as the grand jury were of him. He is, said Mr. L., an officer appointed by the United States to prosecute all offences against the United States. If the common law of England be admitted in the courts of the United States, if it be taken as a rule of proceeding, I conceive it should be taken in all its parts. The District Attorney may not only prosecute by indictment but by presentment. Although a prosecution be generally instituted by indictment, it does not follow that it must be so, for it may be by information lodged by the District Attorney in which the grand jury has no kind of agency. If the prosecution be by indictment, the authority of the District Attorney must come in aid of it, or no prosecution can proceed; it can have no effect until it receive the sanction of the District Attorney, who has equal authority to put an end to it at any instant, without accounting for it. In short, he has the whole control in suits in behalf of the United States. He is, therefore, an Executive officer, made use of to prosecute, on behalf of the United States, or to persecute, if he chooses to submit to superior influence. Far be it from me, sir, to say that this is the case; but, I conceive that there is a possibility of making provision by law to prevent persecution in this way. It is high time some law was provided to punish those who make such egregious abuses of power; it is high time there was some law to punish those who prostrate the laws of the United States to such purposes. I shall, therefore, vote for the appointment of this committee; and I hope they will be able to point out some mode to prevent such abuses in future. As to the sedition law, that has passed away; I do not know that it is necessary for “an Essex man,” or any other, to defend it. It had one excellent feature in it; that one relative to libels. It is no great injury to any man to be prosecuted for a libel if he be admitted to give the truth in evidence on his defence. When it was the practice, as it was ten or twelve

years ago, to tell infamous lies without being subject to prosecution, it was necessary that some remedy should be applied. If the citizen were allowed to give the truth in evidence, he could suffer no injury from an impartial jury of his country.

Mr. DANA said, that if it was intended that this resolution should be adopted with the peculiar view of liberating the soil of Connecticut from its crop of political heresy, he should be averse to having this favor forced upon them. I feel no particular obligation, said Mr. D., to the gentleman from Massachusetts, (Mr. BACON,) or any other, who wishes to reform the heresies of the people of Connecticut, with a view that they should be adopted into his political church. As to the prosecutions in that State, however, it might be well to inquire into them, and to put a stop to them; or, if we do not put a stop to them, to assure to the people the liberty of giving the truth in evidence. It would be well *now*, sir; but it would have been better while the prosecutions were pending, and before they were all defeated. Three years have elapsed since this subject was mentioned in the House by myself, and a call made for an account of the expenses which had been incurred in certain prosecutions at common law, and they were laid on the table and printed, I think, two sessions before the last. I made a motion at the time in respect to the subject; but, from the pressure of business, it was not ultimately acted on. I was not very solicitous to press it; but chose to give public information on the subject, that the experiment might pass before the public whether, when this information was made public, the Government would undertake to arrest the prosecution. I am not certain that it was not known prior to that time. Certain I am that I mentioned it to one of the heads of departments at that session. The prosecutions were not arrested; and really, sir, there must have been something peculiarly bad in that soil, which wanted the culture of such a District Attorney as was placed at the head of it. As to the District Attorney, I acquit him of any peculiar malignity in this business; I had rather supposed that he was impelled by such influence as appointed him; that the persons concerned in appointing him, or others connected with them, were desirous of instituting these prosecutions, and that he had not the firmness to resist them. As to the seditious law, for my constituents, I ask but one privilege; that, when they are prosecuted for libels, they may have the liberty to prove the truth of what they publish; and, if they do not prove the truth, let them suffer. I ask nothing further for them. I should wrong their opinion of the respect which is due to truth, if I asked for them any greater liberty than that of proving the truth of what they utter. As to their being peculiarly attached to what is called common law, it is not the common law of the British empire, but that portion of unwritten law which they have found at once adapted to convenience, conformable to the principles of moral rectitude, favorable to the support of Government, and of

the principles of civil liberty. So much they choose to adopt, whether it come from beyond the Atlantic, or out of our own soil, they find it at once conducive to their happiness, conducive to moral order, to the good of society, and to the perpetuity of Government; this is the common law, which chastises guilt and protects innocence, and to this they are attached.

Mr. BACON asked whether any prosecutions had been commenced in the State of Connecticut in any other manner than by indictment?

Mr. DANA.—Certainly not.

Mr. GOLD made some observations upon the duty of an Attorney General. He said that this officer looked to the jury for facts; but, if law combined with fact, they were bound to look to him for their guide. In offences against the public peace, they wanted no guide but their own eyes and ears; indictments for such offences flowed from the grand jury alone, from their own conviction; but, when otherwise, that officer was immediately referred to. Having had occasion to observe something in relation to the course which had been pursued in cases of criminal prosecutions, Mr. G. said, he had thought proper to state thus much. He noticed another observation made by a gentleman from Massachusetts, (Mr. BACON,) in relation to the prosecutions having been produced from the peculiar soil of Connecticut. In repelling this remark, if, indeed, there were anything to be repelled in it, it was proper to observe that, when a question of justice, especially of that kind to be obtained by prosecution, was brought before the House, nothing could be more unfortunate than for a moment to connect it with party. Justice, Mr. G. said, had a nobler view; it defied such weapons. He conceived the public justice of the country to have been wounded, and that the wound was aggravated when it was carried on the narrowed theatre of politics. He thought it peculiarly unfortunate, not only as respected the reputation of the Administration, but as respected the expense, that of six or eight prosecutions, the whole should have fallen to the ground, without one of them having been put to an issue. After all, if the persons implicated were guilty, a rod had been held over them, which had never fallen; and, if innocent, a great expense had been incurred, and it was right, at least, that they should have an opportunity, before a jury of their country, to be compensated. It seemed, he said, that the persons prosecuted had been defended, and he had no doubt, well defended. He believed that justice demanded that their expenses, in consequence of the prosecutions, should be refunded to them.

Mr. TROUP said that he was so sensibly alive to whatever might directly or indirectly affect the reputation of the late President of the United States, that he could not forbear expressing a hope that, whatever might be done, directly or indirectly, affecting his character, might be so done that the truth, and all the truth, in relation to it, might be in possession of the House. If he had understood the gentleman from Connecticut

MAY, 1809.

Doctrine of Libels.

H. OF R.

correctly, he had declared himself ignorant what was the nature of the prosecutions directed to be instituted. He conceived the inquiry to be important, not only as to what was the nature of the prosecutions, but, as to the fact whether the prosecutions were directed to be instituted, and by whom they were so directed.

Mr. DANA observed, in explanation, that it was supposed, in the State of Connecticut, that the prosecutions were produced by the influence of the administration of the United States; that he himself doubted the correctness of that opinion. The fact had been known, two sessions ago, for he had then mentioned it to an officer of the Government, who, when it was mentioned, appeared at that time to have been entirely ignorant of it.

Mr. TROUP said he was happy at the explanation of the gentleman from Connecticut; and he, as he was sure the House did also, felt indebted to him for the liberality which he had displayed. It was important to understand on what ground the prosecutions had been commenced; if upon the common law doctrine of libel, and the prosecutions were criminal, the defendant was precluded from giving the truth in evidence; but if they were actions for libellous or slanderous words spoken, even by the common law doctrine of England, the defendants were permitted to give the truth of the words so spoken in evidence. It therefore resulted as material to the inquiry, to know not only what was the nature of the prosecutions, but by what authority they had been instituted. On that account, he moved to amend the motion, so as to inquire not only by what authority the actions had been instituted, but who were the institutors of these actions.

Mr. RANDOLPH said he had no objection to the amendment. His object was to come at the truth, to do justice, and secure the liberty of the citizen; and, if that was done, it was perfectly indifferent to him by whom it was done, or who had the credit of it, whose reputation was tarnished, or whose brightened by it. One thing he knew, that he would never attack the reputation of any man by any indirect mode; and, he conceived, it would become the duty of the Committee to sift into the particulars. With respect to actions for slander commenced in the Federal courts of the United States, in which the defendant was permitted to put in the dangerous plea of justification, he never heard of any, nor did he believe there was an instance, in which they had been instituted. He spoke, in the resolution before the House, of prosecutions at common law for libel. On what species of plea could the Federal court get jurisdiction of a case of that nature between the two parties? As he understood the Constitution, Mr. R. said, the circuit court had no such jurisdiction. They might as well attempt to punish murder, because the man killed, lived in one State, and the murderer in a different State. Even the gentleman from Delaware (Mr. BAYARD) had never pushed his argument to the length that Federal courts had cognizance of murder or felony committed within the

jurisdiction of the State courts. He, therefore, had no kind of reference to actions of slander, in the resolution, and he assured his friend from Georgia (Mr. TROUP) that he should feel a pleasure, not much inferior to his, at seeing the reputation of the party involved, whomsoever that party might be, the late President of the United States, the District Attorney, or the District Judge, rescued from any imputation which, what had fallen from the gentleman from Connecticut (Mr. DANA) at the last session, might have a tendency to cast upon it. Mr. R. here most solemnly avowed, that the mention made of this subject by the gentleman from Connecticut, at the last session, was the first time that he ever had what he deemed creditable evidence of the fact. He had, indeed, seen intimations of the kind in the newspapers; but, on inquiring if they were true, he had been told that they were Federal lies; and, accordingly, he had set them down as Federal lies; he meant of the editors of the Federal newspapers; for, indeed, it was known that newspapers were not confined to the truth, and that those people in the United States who could afford to take but one paper, or whose prejudice was so strong that they would read but one side of the question, stood but little chance of knowing the real state of affairs.

Mr. R. stated the circumstances under which he had moved an inquiry into the conduct of Samuel Chase, as being similar to those under which he moved the present inquiry. When the fact had been stated by the gentleman from Connecticut at the last session, he said, he had been astonished that it had created so little sensation in the House or in the nation. If he, a Representative of the nation, who had an opportunity of seeing various publications and having access to various information which others had not, was until then ignorant of the fact, was it not possible, nay, more than probable, that the great mass of the American people were, at the moment he was speaking, in perfect ignorance of the fact? If we are to preserve our Republic pure, said Mr. R., we must often recur to fundamental principles, look frequently over our file of precedents, and expunge those which are not salutary, and those especially which we find to be unconstitutional; especially, we should draw the pen over all made in hard and unconstitutional times. With regard to one observation made by the gentleman from Connecticut, that he wishes his constituents to have no other law of libel or of justice than that which they find under the sedition act, viz: the privilege of giving the truth in evidence, I will remark that, however proper this principle might be in a single integral government, it varies when we apply it to a Federal Government, exercising only certain specified powers, and having an aspect principally to foreign affairs. To what purpose does the Constitution declare that Congress shall make no law abridging the freedom of the press, if Congress can make laws, such as the sedition law, or, if the courts can entertain prosecutions at common law for libels? That there should be power on this

subject somewhere is one thing; but that the General Government should possess that power, which, however inherent in an integral government, is denied to that government by the Constitution, is another thing. It was a weapon wielded with great force against us at the time of the discussion on the sedition law, that men who told seditious lies ought to be liable to punishment; and, I suppose, sir, the difference was not perceived between the men who wrote libels being liable to punishment, and their being subject to punishment in the Federal courts. The question was not whether there should not be a punishment for libels, but whether the Government of the United States had or could have, agreeably to the Constitution, any law of libel. Mr. R. asked of the House, if it was not now right to reform the abuses which had taken place, to set about the work. An attempt had been made in the other House, and failed, like an attempt to promote economy and enforce accountability. You know very well, said Mr. R., that there were many of us, and I was one, who thought that, at the commencement of Mr. Jefferson's administration, it would be proper for us to pass a sort of declaratory act on the subject of the sedition law, something analogous to Mr. Fox's celebrated declaratory bill on the subject of libels, which did not so much enact a new law as declare that Lord Mansfield's law was not law—but, on this subject, as well the reduction of the Army below its then standard, as on some others, I had the honor (or dishonor as some might esteem it) to be in the minority. I had thought that we ought to have returned the fines of all those who suffered under the law; that we should have followed the example of that precedent which rescinded all the resolutions in relation to the Middlesex election; that we should have made whole, as far as in our power, the persons who came under the lash of that law. But, you know that it was said that we came in as reformers; that we should not do too much; that we should go on by little and little; that we should fire minute-guns, I think was the expression; which produced no other effect, that I ever found, than the keeping up a spirit of irritation, which might have been, and ought to have been long ago allayed. I would have acted in that case, as, I presume, the master of a family would act if offended by his children; I would first have punished, and then forgot—and it is in this manner alone that a State or family can be kept in due subjection to the father of that State or family, without, at the same time, having their confidence impaired. But if the father will not punish, but will continue to remember the fault, he alienates the child. If he will continue to twit him in the teeth with his wrong doings, he must count upon losing his confidence. It is better to give him his due, and then forget that he has offended, and reinstate him in his affections. I am sorry to have said so much, sir, but I owed it to myself. Among the different charges which have been made against me, one was that I had no projects—no *projects*, I think, was the term. I trust that, before the ses-

sion is ended, I shall satisfy the House that I am at least as full of projects as they could have wished me to be.

Mr. TROUP said that the gentleman from Virginia was wholly mistaken in his ideas, for he, Mr. T., was no less friendly to the motion than the gentleman from Virginia himself; and, as to motives, he had no hesitation in declaring that he believed those of the gentleman to be pure and worthy as those of any man, and that the gentleman was utterly incapable of making a dishonest attack on any man. But I wish the gentleman to understand the distinction which I took, said Mr. T., and remark the obvious difference which might result from the mode in which the inquiry was to be conducted. If, after a certain mode, it might lead to this result: that the President of the United States had instructed the District Attorney to institute criminal prosecutions under the English common law doctrine against a citizen for the purpose of oppression, while the defendant was prevented from giving in evidence the truth of his words or writings. In such a case, I have no hesitation in saying that I would consider the President giving such an order as not only highly censurable, but as meriting an impeachment, as guilty of high crime and misdemeanor. But if a different result should convince me that, so far from being directed by the President of the United States, the prosecutions were made by the mere voluntary motion of the District Attorney, the criminality would not rest with the President of the United States, but with the District Attorney; but more especially if not only unauthorized but unsanctioned.

Mr. RANDOLPH observed that he had not said that he suspected this or that man. If his own impression was worth anything, he did not believe that any direction on this subject had been given by the late President of the United States. But this was his mere belief; and it was impossible to say where the blame rested.

Mr. PIERCE said he rose not to enter into the discussion, but to state a fact which had not been mentioned. Reference has been made to the grand jury and the district attorney, said Mr. P., and the gentleman from Massachusetts seems to suppose that the district attorney is the mere agent of the grand jury. Whatever is the law on this point is totally immaterial at present; the gentleman, however, is mistaken as to the origin of these suits. I understand the fact to have been that the district judge, who was appointed under the late Administration, was sole acting judge in the court in consequence of the absence of the other judge. In his charge to the grand jury he particularly called their attention to libellous publications against the Government of the United States. That charge was printed in one of the newspapers of that State; in that one, I believe, in which the laws of the United States are printed. In consequence of what was delivered to the grand jury, they took the subject into consideration and made the presentments. I merely state this as the fact.

A motion was now made by Mr. GHOLSON to

MAY, 1809.

President's Message.

H. OF R.

insert the word "criminal" before the word "prosecutions" in the resolution, which produced a desultory debate of more than an hour on the powers of the Federal and State courts, turning chiefly on the construction of the words of the first part of the 2d section of the 3d article of the Constitution of the United States. Messrs. J. G. JACKSON, RANDOLPH, GHOLSON, LOVE, and NELSON, partook of the debate; in the course of which

Mr. TALLMADGE took occasion to quote the journals, to show that several motions on the subject of those prosecutions had been made in this House in January, 1807; and he observed, that after this, how any gentleman in public life could to this day have remained ignorant of the fact, was to him astonishing. He expressed himself highly pleased that this subject was at length taken up, and hoped that no delay would obstruct an inquiry or prevent the passage of a law for the protection of the citizen in future.

Mr. GHOLSON withdrew his motion to insert the word "criminal;" and the motion was agreed to unanimously, by yeas and nays, 124 voting in the affirmative.

Mr. RANDOLPH, Mr. HOLLAND, Mr. DANA, Mr. HOWARD, and Mr. TRACY, were appointed a committee, pursuant to the said resolution.

Mr. RANDOLPH then laid on the table the following resolution:

Resolved, That provision ought to be made, by law, to secure the right to an impartial jury, in all cases, civil and criminal, maintained in the courts of the United States.

FRIDAY, May 26.

Another member to wit: ROBERT WEAKLEY, from Tennessee, appeared, produced his credentials, was qualified, and took his seat.

The SPEAKER laid before the House a letter from the Governor of the State of Virginia, enclosing the certificate of the election of JOHN G. JACKSON to serve as one of the Representatives for that State in the Eleventh Congress of the United States; which were read, and referred to the Committee of Elections.

On motion of Mr. MORROW, the Committee on the Public Lands were directed to inquire what further provision is necessary to be made for the disposal of the public lands in the Mississippi Territory, ceded by the Cherokees and Chickasaws; and that they report by bill or otherwise.

On motion of Mr. MORROW,

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of authorizing the appointment of an agent, whose duty it shall be to appear before the Board of Commissioners for adjusting the claims to land in the District of Kaskaskia, in behalf of the United States, to investigate the claims for lands, and to oppose all such as may appear to be fraudulent and unfounded; and, also, to inquire whether any, and, if any, what, additional compensation ought to be allowed the said Commissioners and their Clerk, for services rendered in the

year one thousand eight hundred and eight; and that the committee have leave to report by bill, or otherwise.

Mr. LOVE presented a petition of sundry inhabitants of the City of Washington, praying that a company be incorporated for the purpose of opening a turnpike road from the City of Washington to the boundary of the District of Columbia, so as to communicate with a turnpike road proposed to be open from the said boundary to the city of Baltimore, in the State of Maryland.—Referred to the Committee for the District of Columbia.

Mr. McKIM presented a memorial of the manufacturers of hats in the city of Baltimore, to the like effect, with a memorial of the manufacturers of hats in Fredericktown, presented on the twenty-fifth instant.—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. VAN HORN, the Committee for the District of Columbia were instructed to inquire what amendments are necessary in the act concerning the District of Columbia.

On motion of Mr. RANDOLPH,

Ordered, That the Committee of the whole House on the state of the Union, to whom was committed on the twenty-fourth instant, a resolution proposed by Mr. RANDOLPH for immediately disbanding the troops raised by virtue of "An act to raise, for a limited time, an additional military force," and for applying any balance of appropriation remaining unexpended in relation to the same, and any unexpended balance of appropriation for gunboats, towards arming and equipping the whole body of the militia of the United States, be discharged from the consideration thereof; and that the same be referred to the committee last appointed.

PRESIDENT'S MESSAGE.

The House then resolved itself into a Committee of the Whole on the state of the Union; and, after some time spent therein, the Committee rose and reported the following:

1. *Resolved*, That so much of the Message of the President of the United States as respects our relations with foreign nations, be referred to a select committee.

2. *Resolved*, That so much of the Message of the President of the United States as relates to a revision of our commercial laws, for the purpose of protecting and fostering the manufactures of the United States, be referred to the Committee of Commerce and Manufactures.

3. *Resolved*, That so much of the Message of the President of the United States as relates to the modifications of the Military and Naval Establishments of the United States, be referred to a select committee.

4. *Resolved*, That so much of the Message from the President of the United States as relates to the fortification of our seaport towns, be referred to a select committee.

5. *Resolved*, That so much of the Message from the President of the United States as relates to the revenue and expenditures of the United States, be referred to the Committee of Ways and Means.

The House proceeded to consider the said reso-

H. OF R.

Vote of Approbation.

MAY, 1809.

lutions; and, the same being again read, were agreed to by the House.

Mr. JOHN G. JACKSON, Mr. MACON, Mr. THOMAS MOORE, Mr. MOSELY, Mr. QUINCY, Mr. TROUP, Mr. JOHNSON, Mr. FISK, and Mr. ANDERSON, were appointed a committee, pursuant to the first resolution.

Mr. CUTTS, Mr. BASSETT, Mr. MILNOR, Mr. SAWYER, Mr. HALE, Mr. JOHN BROWN, and Mr. SAGE, were appointed a committee, pursuant to the third resolution.

Mr. BURWELL, Mr. KEY, Mr. KENNEDY, Mr. GEORGE SMITH, Mr. PETER B. PORTER, Mr. GARDNER, and Mr. WILLIAM CHAMBERLIN, were appointed a committee, pursuant to the fourth resolution.

On motion of Mr. RANDOLPH,

Ordered, That the committee this day appointed on so much of the Message of the President of the United States as relates to the modifications of the Military and Naval Establishments of the United States, be discharged from the consideration of that part of the subject referred to them which relates to the modifications of the Military Establishment; and that the same be referred to Mr. NELSON, Mr. DAWSON, Mr. CHAMPION, Mr. LYON, Mr. TAYLOR, Mr. LIVERMORE, and Mr. FRANKLIN, to consider and report thereon.

On motion of Mr. J. G. JACKSON, the letter and report yesterday received from the Secretary of the Navy were referred to the committee this day appointed on so much of the Message from the President of the United States as relates to the Military and Naval Establishments.

GUNBOATS.

Mr. PITKIN observed that by a report received yesterday from the Navy Department, the House were informed of the state and condition of most of the frigates and other armed vessels of the United States. The House had heretofore, from calls made on the Secretary of the Navy, information laid before them of the expense of building and repairing these frigates and other armed vessels; but never, to his recollection, had any statement from the Department of the expense of building the gunboats, or any account of their actual expense while in service, been laid before them. Various *estimates* had been made of their expense while in service, but the House never had before them any statement of the *actual expense*. For the purpose of obtaining this information, he asked leave to move

"That the Secretary of the Navy be directed to lay before the House a statement of the number of gunboats which have been built, and the expense of building the same; also of the number employed in actual service, the time they have been employed, and their expense while in actual service."

This motion, after some conversation between Messrs. DAWSON, DANA, PITKIN, LYON, BACON, and W. ALSTON, was agreed to without a division.

VOTE OF APPROBATION.

Mr. RANDOLPH said that for the last eight years or thereabouts an alteration had taken place in the manner of doing business at the commencement of each session of Congress. He said he recollected when the first Congress under the Administration of Mr. Jefferson had met at this place, instead of Congress being opened as heretofore by the President in person and by a speech, a note in these words had been received by the Speaker, enclosing a Message from the President:

"DECEMBER 8, 1801.

"SIR: The circumstances under which we find ourselves at this place rendering inconvenient the mode heretofore practised, of making by personal address the first communications between the Legislative and Executive branches, I have adopted that by Message, as used on all subsequent occasions through the session. In doing this I have had a principal regard to the convenience of the Legislature, to the economy of their time, to their relief from the embarrassment of immediate answers on subjects not yet fully before them, and to the benefits thence resulting to the public affairs. Trusting that a procedure founded in these motives will meet their approbation, I beg leave through you, sir, to communicate the enclosed Message," &c.

It is unnecessary, I believe, (said Mr. R.) to state that the hint contained in the Message that no answer was to be expected, was taken by the House; and from that day no answers have been given to the Messages of the President at the opening of Congress. It would ill become me, sir, who so highly approved then, and who so highly approve now the change introduced by communicating to the two Houses by message instead of by speech, to say anything that might imply a disapprobation of it. I like it, sir. To tell the truth, the style of communicating by speech was more in the style of the opening of the British Parliament by the King. I therefore like the mode of communication by message. But I am not so clear, though we were then half-right, that we were wholly right; though on this subject I do not mean to give a definite opinion. No man can turn over the journals of the first six Congresses of the United States without being sickened, fairly sickened with the adulation often replied by the Houses of Congress to the President's communication. But nevertheless the answer to an address, although that answer might finally contain the most exceptionable passages, was in fact the greatest opportunity which the opposition to the measures of the Administration had of canvassing and sifting its measures; and, in my mind, whatever goes to take away this opportunity, goes so far to narrow down the rights of the minority or opposition, commonly so called, and in fact to enlarge the rights of the majority and the Administration party so called; and I beg leave not to be understood as speaking of the state of parties at this time, but of that which has always existed. This opportunity of discussion of the answer to an address, however exceptionable the address might be when it had received the last seasoning for the Presidential palate, did afford the best opportunity to take a review of the measures of the

MAY, 1809.

Vote of Approbation.

H. OF R.

Administration, to canvass them fully and fairly, without there being any question raised whether the gentlemen was in order or not; and I believe the time spent in canvassing the answer to a speech was at least as well spent as a great deal that we have expended since we discontinued the practice. I do not say that any answer is proper or ought to be given; but I do believe that when this House goes into a Committee of the Whole on the state of the Union, it is for purposes a little more elevated than to dissect the Message of the President of the United States, or to strip it up and transfer it to select and standing committees. If that be the whole object of going into a Committee of the Whole on the state of the Union, I can see no reason for having any such committee, nor why the Message should not be taken in the first instance, dissected by the knife of the operator most in the fashion of the day, and referred to different committees. And it has a tendency to cast a sort of ridicule on our proceedings, when this august assembly resolves itself into a Committee of the Whole on the state of the Union, and resolves that the Message shall be referred to such and such committees; and would induce shallow observers to believe that in fact there is little or no use for such a committee. But whatever may be my opinion on the subject of opening the two Houses by message, I do think that there are occasions, and that this is one, on which it behooves this assembly to express its opinion on the state of public affairs. I will not recall to your recollection, sir, because perhaps, and most probably it passed over your mind without making any impression, that sometime during the last session of Congress, I stated that if the gentleman in whose hand the reins of Government were about to be placed did not even tolerably perform the task assigned to him, some allowance ought to be made for the state in which he found the nation. And, sir, when I see the situation of the country so materially changed for the better, am I and is this House to sit still and regard it but as newspaper talk of the day, and express no opinion on it? And what is our opinion? It is either in approbation or disapprobation of the conduct of the Executive. In my opinion it is due to the Executive that he have an expression of sentiment on this subject. In the part of the country in which I live, dinners have been given, feasts have been held, and the song and toast have passed round in commemoration of the event: and is this House to be insensible, and to leave the President of the United States in ignorance or doubt whether his conduct has or has not received the sanction of their approbation? Or is he to get that information from unofficial sources? I hope not. I hope he will get it from ourselves. I therefore move you—

“That the promptitude and frankness with which the President of the United States has met the overtures of the Government of Great Britain, towards the restoration of harmony and free commercial intercourse between the two nations, meets the approbation of this House.”

Mr. FINDLEY said that this proposition contemplated a novelty in the legislative proceedings of

this country. Where would it end if the House were now to make a solemn resolution approving of the conduct of the President? The answer returned to the speech of the King in monarchical Governments committed the House making it to all that was contained in it. The practice in this country had been long considered an evil; indeed he thought he could show by the journals one instance in which the discussion of a single section in an answer occupied the House fourteen or fifteen days. It was a practice, too, which introduced at the very opening of the session all that irritation that commonly arose in the course of a session. Mr. F. said he supposed there was not a member in the House but did approve of the President's exercise of the authority vested in him. He presumed that they approved equally also of the same offer heretofore made to the Court of London. If the House were to approbate the conduct of one President, they must approbate that of others; and the conduct of the different Administrations under the Constitution might be brought into view. Mr. F. was totally against this motion, or any other of the kind.

Mr. DANA said that at the present time he should certainly not be for adopting the resolution. The adopting it at this time would certainly not comport with the object professed by the mover, which he had understood to be, to present a question on which there might be a general view of the conduct of the Executive in relation to the object in question. If the object was to bring up the question in a regular form, that gentlemen might express themselves fully in relation to our affairs, it was very proper that this subject should be discussed in Committee of the Whole on the state of the Union. For himself, Mr. D. said that he thought the mode of answering speeches might do very well in such a Government as this, and whatever might be said of economy of time, by an attention to the actual expense it would be found that in fact very little time was lost by it. At the last session of Congress a committee had reported a resolution to which there was but two dissentients; the discussion occupied nearly three weeks. All agreed as to the result, but gentlemen combated each other's arguments. And undoubtedly, Mr. D. said, the rapidity with which the Message was shot through a Committee of the Whole, was rather a farcical piece of business—and, indeed, it was not without some little surprise that, when he had come to the House this morning, he found the whole subject disposed of. If he had a convenient opportunity, Mr. D. said, he should have no objection to express some of his opinions on points in the conduct of the Administration. Yet he was not certain that an abstract proposition of this kind was a desirable thing to be adopted; although he admitted that it was desirable that there should be some mode of expressing an opinion on the measures adopted by the Executive during the recess, without being narrowed in the discussion by the rules of order.

Mr. W. ALSTON said, that when a resolution like the one proposed was presented to him, the substance of which met his approbation, if he was

H. OF R.

Vote of Approval.

MAY, 1809.

compelled to vote directly upon it, he would rather vote for it than against it. But if it were the object to bring before the House a discussion upon the Message of the President, and to return an answer to his Excellency's most gracious Message, he should certainly be opposed to it. If ever there had been one particular part of the conduct of the former Administration which had met the approbation of the Republicans of this country generally, it was the discontinuance of this practice. The result of the alteration was, that although more was done during the sessions of the Republican Congresses, they terminated them three or four weeks sooner than ever had been done before. As to the opportunity which the answers afforded for debate, could any one say that sufficient latitude had not been taken in debate? Had not gentlemen even called others by name, and introduced every subject on any question? Mr. A. said he was pleased with what had been done, and he could not vote that he was not pleased; but he was certainly opposed to entering into a full discussion, at the opening of each session, of everything which was to come under the consideration of the House. If they were to take up this resolution, they might as well take some abstract act of Mr. Adams's, he being still living, and discuss his political life. WASHINGTON, at least he hoped, having departed from us, would be permitted to rest in peace.

Mr. BACON said, that with other gentlemen, he could not but regret that this proposition had been brought forward. If he were brought to vote upon it, he need not tell the House that he should cordially vote for it; but it was really one of the last observations which he had expected to have heard from any gentleman that we wanted field for debate. He had thought that the grievance was the other way; that the cause of complaint was, that they consumed too much time in debate. He said he should certainly vote for the resolution, were it brought to a direct vote; but, for the purpose of placing before the House the view of the subject which he entertained, he should take the liberty to move an amendment to it, and then move to refer it to a Committee of the Whole. The amendment was in these words, proposed to be added to the motion:—"And furnishes an additional proof of the spirit of accommodation on the part of the Government of the United States, which has at no time been intermitted."

Mr. J. G. JACKSON moved that the whole subject be postponed indefinitely.

Mr. RANDOLPH said that as an indefinite postponement was considered as tantamount to a rejection—for it prevents a renewal of the subject during the session, and a rejection does nothing more, as the House had heretofore had a woful experience in the case of certain very pertinacious petitioners; and, as he was afraid, they would again have from a certain body of petitioners, who, he presumed, had not entirely given up their hopes of quartering themselves on the public property—an indefinite postponement, then, being equivalent to a rejection, he certainly was opposed to the rejection of his own motion.

He could not have believed that this motion would have been rejected by the House, though he said he had certainly calculated on its being opposed by those who condemned the promptitude and frankness with which the President had proceeded to restore, as far as depended on him, the intercourse between the two nations. It is this part of the conduct of the President of the United States, said Mr. R., on which I mean to give an opinion—"By the President of the United States, a proclamation"—and in that proclamation, in my opinion, he has deserved well of his country. I ask the gentleman from Pennsylvania, (Mr. FINDLEY,) if he is near enough to hear me in this vast room, when I have proposed bringing in review the whole measures of former Administrations; when have I proposed an answer to an address to the two Houses? I have proposed no such thing, sir, although my motion is nearly tantamount to it; because it so happens that the only act of which we have any knowledge, except the laying up the gunboats in dry dock, which I also most cordially approve, is this very thing. Now, I have not the slightest objection, if the gentleman chooses, that the honorable and worthy gentleman from Massachusetts should insist on a *venire* on the conduct of any former President of the United States, but I beg myself to be excused from serving on it. As an unqualified juror, I choose to except myself; for, really, as to one of those Presidents, his career does not yet seem to be finished. It would seem as if he meditated another batch of midnight judges, and another midnight retreat from the Capitol. I do, therefore, except to myself as a juror as to him or any other President. *De mortuis nil nisi bonum.* Agreed, sir. Let the good that men do live after them, and the evil be interred in their graves. But, I would ask the gentleman from Connecticut, and the gentleman from Pennsylvania, also, if this be one of their abstract propositions? How abstract, I pray you? Or, if it be one of those unmeaning propositions, the discussion of which could answer no good to this House? It would be idle in us now to be trying Mr. Adams on the merits of the sedition law, the eight per cent. loans, or any other such act. It would answer no purpose; and it would be equally idle and futile to pass any opinion on the merits or demerits of the first four or last four years of the late Administration, for this plain reason, the question bolts upon you, *cut bono*? What earthly good can result from it? But is that the case in relation to the Executive, on whose future dispositions rest the best interests of this nation? Is that a mere idle discussion? And is it come to this? Is this House so sunk in the Executive opinion (I trust not, sir; I abhor the idea,) that its approbation of a great course of national policy is to pass for nothing; is to have no influence on the conduct of the Executive of the United States? This, sir, is taking higher doctrine than was ever advanced by those who wished to see the President open Parliament by a speech from the throne. It is taking higher ground than the Minister of that country from

MAY, 1809.

Vote of Approbation.

H. OF R.

which the precedent was derived. The weight of the House of Commons is felt too sensibly there for their inclinations not to be sounded by motions from their Chancellor of the Exchequer, and their members of opposition, in relation to the great course of foreign affairs. And, sir, shall we now be told that it is a mere matter of moonshine, a thing of no moment, whether this House really does approve the conduct of the Administration of the Government of the United States, or disapproves it? Praise, in my opinion, properly and not prodigally bestowed, is one of the best resources of a nation. Why is this House called upon, and I am sorry to say it is, too often, and too lightly, to give its sanction to the conduct of individuals in the public service, if its approbation is estimated so trivially? No, sir; this is a great question which I have presented to you, and gentlemen may hamper it with as many amendments as they please; they cannot keep the question out of sight. Some may be *against* it because they are *for* it; some because it does harm, and some because it does no good. The question cannot be kept out of sight; it has been presented to the American people and they have decided it, decide you how you may.

With respect to the gentleman's amendment, I need not tell him, I presume, that I shall vote most pointedly against it, because, in my opinion, it does not contain the truth. The gentleman from Massachusetts (Mr. BACON) will be among the last of the members of this House to attribute to me an improper sentiment in regard to him, when I say that it does not contain the truth. If the gentleman from Massachusetts chooses, in imitation of another Eastern nation—not those who tried their Kings after they were entombed, but those who consigned to one common grave the living and the dead; if he be willing to attach the sound, healthy body of the present Administration—healthy so far, and, I trust, fortifying itself against contagions—to the dead corpse of the last, let him. He shall not have my assistance in doing it; nor have I the least desire to draw a marked distinction between the two Administrations. The gentleman will hardly suspect that I am seeking favor at Court. My object is plain. It is to say to the President that, in issuing that proclamation, he has acted wisely, and we approve of it. I know, sir, that there are men who condemn the conduct of the President in issuing the proclamation; and why? They say he was precipitate. Where was the necessity, they will tell you, of declaring that the Orders in Council will *have been* withdrawn? This is the language of objection. There is a difference of opinion subsisting in this country on these two points. There are men who condemn this proclamation, and men who condemn the construction given by the Executive to the non-intercourse law. I approve both. I wish the President of the United States to have the approving sentiment of this House, and to have that approbation as a guide to his future conduct; and I put it to the gentleman from Massachusetts whether it be fair to mingle it with the old,

stale, refuse stuff of the embargo? No, sir; let him not put his new wine into old bottles. There is a difference of opinion in this country. The President of the United States stands condemned by men in this nation, and, as I believe, in this House, for having issued that proclamation, and put that construction on the non-intercourse law. I wish to see by how many he is thus condemned. I do not wish to see the question shirked—to see it blinked. If there be a majority of the House, as I believe there is, in favor of the conduct of the President, I wish him to have that approbation expressed as a guide to his future, and a support to his present conduct. It is due to him. Sir, have I moved you a nauseous, sickening resolution, stuffed with adulation? Nothing like it; but, a resolution that the promptitude and frankness with which the President of the United States has met the overtures of the British Government towards a restoration of the ancient state of things between the two countries—the state prior to the memorable non-importation act of 1806—meets the approbation of this House. Either it does, or it does not. If it does, let us say so. If it does not, let us say so. If gentlemen think this House never ought to express an opinion, but leave the President to grope in the dark as to our views, or get them through unofficial channels, I presume the previous question will be taken, or a motion made that the resolution lie upon the table. The gentleman from Pennsylvania says, shall we go back, and approve of what he conceives to be similar conduct of the late President of the United States in relation to the embargo? I hope not, sir. But if a majority of this House choose to do so, let them. I shall say no. But, why mingle two subjects together, on which there does exist—and I am afraid it will leak out on this very vote of indefinite postponement—so very material a difference of opinion in different parts of the House? For example: I do not think of the offer about the embargo as the gentlemen from Massachusetts and Pennsylvania think; and I think it probable that those two gentlemen do not think of this proclamation and the construction given to the non-intercourse law, as I think. And why should we make a sort of hotch-potch of two subjects, on which we do not think alike, for the purpose of getting us all united against both? It is an old adage, and a very homely one, perhaps too much so for the delicate ears of this assembly, that if you put one addled egg into a pudding, you may add fresh ones, *ad infinitum*, but you can never sweeten it. And, sir, I defy the gentleman from Massachusetts, with all his political cookery, by pouring out of the jar of our present situation into the old mess, to sweeten it. I am here prepared to prove, as I conceive that gentlemen deny it, that the conduct of the two Administrations has been radically, essentially, and vitally different; that owing to this difference is the change which we now experience in the state of our foreign affairs; that there is no sort of analogy between the offer to suspend the embargo as it respected Great Britain, and the situation in which we put ourselves

H. OF R.

Vote of Approbation.

MAY, 1809.

in relation to France and Great Britain, by the suspension of the non-intercourse act towards the latter. And to the promptitude and frankness with which the President met the overtures of the British Ministry do we chiefly owe the difference in the situation of the country. For, might not the President of the United States, instead of proclaiming that the Orders in Council will *have been* withdrawn, have proclaimed that, when they *shall be* withdrawn, a renewal of intercourse shall take place? And here, too, comes the construction given to the non-intercourse act. On the question whether the renewal of intercourse on the 10th day of June, applied to a vessel clearing out hence, or to her arrival in England, our Government, (and I am obliged to them for it,) decided that it applied to the time when the vessel should arrive in England. Then, sir, if we take the time which will be required for a voyage hence to Europe, it is *lucē clarius* that the non-intercourse will never have been in force at all as to trade of export. Is that nothing? And, lest the gentleman from Pennsylvania, or any other gentleman in this House may get alarmed at my approbation of the administration of the Government of the United States, I will state to them I do not wish to terrify them out of their opinions; I wish them to judge the Administration upon its merits, without reference to persons, as I have judged of the proclamation, without reference to the parties concerned in the manufacture of it. Lest they should be too much alarmed at that approbation, I will state that my idea is, that the President of the United States has but done his duty; and that the Minister of Great Britain has no cause to put on sackcloth and ashes for any concessions which he may have unwarily made to our Government. If my strength will hold me out, sir, I will state why.

In the year 1806, we passed that miserable old non-importation act, which last session we repealed; and really, sir, we got rid of it with an adroitness which pleased me exceedingly. Never was an obnoxious measure more handsomely smothered by its avowed friends. Gentlemen said it was merged in the non-intercourse act, and therefore, as a matter of indifference, they would repeal it; and, when the non-intercourse act shall expire by its own limitation, at the end of this session, or be suspended by the President's proclamation, as it is in relation to Great Britain, there is an end of both; and thus, the old measure, the old, original sin to which we owed our first difficulties, was as much gotten rid of as if a majority of this House had declared it an unwise measure, and therefore repealed it. I do recollect to have heard one gentleman (Mr. EPPES) say, that unless the section repealing this law were stricken out, he should be compelled to vote against the bill. He conjured the House to cling to the old non-importation act as the last vestige and symbol of resistance to British oppression; but the House was deaf to his call, and the non-importation act was plunged beneath the wave, never, I trust, to rise again. When, therefore, the late President of the United States made an

offer to Great Britain to suspend the embargo as to her, provided she would withdraw her Orders in Council, I will suppose that she had accepted that offer. In what situation would she have stood in relation to the United States? Her fine cloths, her leather, her watches, her this, and her that, would have been prohibited admittance into this country under the old non-importation act of 1806, which would have been in force. That act, in point of fact, had no operation on her adversary. Her ships would have been prohibited the use of our waters, whilst the ships of war of her enemy were admitted. Did that make no difference? That, sir, would have been the situation of the two countries, provided she had accepted the offer to suspend the embargo as to herself—the old non-importation act in operation, her ships of war excluded, and her rival's admitted. I pray you, was not that the condition of the country when Mr. Rose arrived? Was there not some difficulty, under the proclamation, in the admission of the *Statira* frigate, bearing that Minister into our waters? And were not French ships of war then, and have they not since been riding quietly at Annapolis, Norfolk, and elsewhere? Has not, in fact, the gallant Captain Decatur taken our own seamen out of one of them? And, yet, sir, the offer at that time made by us has been identified with the negotiation between Mr. Secretary Smith and Mr. Erskine. What then was her situation? The non-importation act in force, *her ships excluded* and those of France *admitted*, and nothing in force in relation to France except the embargo. What is now the situation of affairs? Trade with her is restored to the same situation, in point of fact, in which it stood when Congress met here in 1805, and 1806—at the memorable first session of the ninth Congress, which generated the old non-importation act of 1806. Her ships of war are admitted into our waters, her trade is freed from embarrassment, while the ships of her adversary are excluded, and the trade between us and her adversary forbidden by law. While, therefore, I am ready and willing to approve the conduct of the present Administration, it is not because I conceive that they have effected anything so very difficult—that they have obtained any such mighty concession—but, because they have done their duty. Yes, sir; we all recollect that the objections made to the treaty negotiated by Mr. Monroe and Mr. Pinkney, on two great leading accounts: 1st. That it contained no express provision against the impressment of seamen. Is there any provision now made? No, sir. The next objection to the treaty was the note attached to it by Lords Holland and Auckland. What, sir, did gentlemen on this floor say was the purport of this note? That its object was to put us in a state of amity in respect to Great Britain, at the expense of the risk of collision with France. On account of this note, the treaty and the treaty-makers have been politically damned. And yet, we are now, in point of fact, in that very situation, in relation to the two nations, in which it was said that the British Commissioners, by the

MAY, 1809.

Vote of Approbation.

H. OF R.

note, aimed to place us, and which was a sufficient reason, according to the arguments of gentlemen, for rejecting the treaty. The note was a sort of lien, gentlemen said, that would put us in a state of hostility with regard to France, and amity with regard to England. We refused to give our bond, for such it was represented (however unjustly) to be, to be sure, sir; but we have paid the money. We have done the very thing which gentlemen say the note aimed to induce us to do. We have put ourselves in a situation endangering collision with France, and almost insuring amity with England. We have destroyed the old non-importation act. The non-intercourse act is suspended as to her. Trade is again free. There is nothing now to prohibit her ships, whether for commerce or war, from coming into our waters, whilst our trade with France is completely cut off; and *her* ships excluded from our waters. I cannot too often call the attention of the House to this fact, on which I am compelled to dwell and dilate to get rid of this merciless motion, which kills while it professes to cure. When Mr. Rose came into this country, French ships of war were freely admitted; English ships were excluded.

As "the physician, in spite of himself," says in one of Moliere's best comedies, *on a changé tout cela*—the thing is wholly reversed. We are likely to be on good terms with England, maugre the best exertions of some of our politicians. Trade with Great Britain is unshackled, her ships are admitted, trade with France is forbidden; and French ships excluded, as far as it can be done by paper. Now, in the name of common sense, what more could Mr. Canning himself want, than to produce this very striking and sudden change in the relations between the two countries? For a long time previous, it was the ships of England that were excluded, while those of her adversaries were admitted. And we know that we could not have touched her in a more jealous point than in her navy. Things are now reversed—we have dextrously shuffled the non-importation act out of the pack, renewed trade with her, admitted her ships, and excluded those of France. And what, I ask this House, has the British Minister given us in requital for this change of our position in relation to him and his rival belligerent? The revocation of the Orders in Council—this is the mighty boon. For, with respect to his offer in relation to satisfaction for the attack on the Chesapeake, he made that offer to Mr. Monroe spontaneously, on the spur of the occasion, and there is not a doubt in my mind but that we had nothing to do but receive it at that time, provided the instructions of our Minister had permitted him to receive it; but perchance, sir, if he had received it, we might have been at this day discussing his message, and not the message of another President. All that Mr. Canning has given this country is a reiteration of his offer to make reparation for the affair of the Chesapeake, and his withdrawal of the Orders in Council; and to what did they amount? So soon as you, by your own law, cut off your trade with France, he agrees

to revoke the orders interfering with it. Mr. Canning might as well have withdrawn blank paper. They had nothing left to operate upon. The body upon which they were to operate was destroyed by our own act, to wit, the trade of France. And, sir, while I compliment the present state of things, and the conduct on the part of our Government which has led to it, I cannot say that we have greatly overreached Mr. Canning in this bargain, in making an exchange of the old non-importation act with the admission of English, and exclusion of French ships and trade, for the Orders in Council. Mr. Canning obtained as good a bargain out of us as he could have expected to obtain; and those gentlemen who speak of his having heretofore had it in his power to have done the same, did not take into calculation the material difference between the situation in which we now stand, and the situation in which we before stood—to say nothing at all of Great Britain's having taken a stand against the embargo, having declared that she had nothing to offer in exchange for it; that we might keep it as long as we pleased. If she had accepted our offer, as I before stated, the old non-importation law would have been in operation, her ships of war would have been excluded, whilst those of France were admitted. Now, the non-importation act is not in force, her ships are permitted to enter our waters, and those of France excluded. And what has this sarcastic Minister of Great Britain given us in exchange? The Orders in Council, which had completely ceased to operate by the cutting off of the trade between us and France. Let me state this argument in a shape most favorable to ourselves, and least so to the British Government. I speak as to argument; for, as to friendship between nations, there is no friendship in trade. We ought to get the best bargain out of them that we could, and it was the duty of their Minister to get the best out of us. Let us throw out of view the exclusion of French ships and French commerce. Is the removal of the non-importation act, and the admission of British vessels, nothing? What has Mr. Canning given you in return? The Orders in Council—and what were they worth to him? Not a straw.

If, sir, we are not to have a full discussion of the conduct of the present Administration, and it is to be blended and indented with the conduct of the last—which I very much deprecate, because I see nothing but a most striking difference between the two—we must take into view the situation of the two countries, Great Britain and America, at the time the first session of the ninth Congress commenced, in the beginning of the winter of 1805, that unhappy year of schism. Were those orders then in force which Mr. Canning has withdrawn? No, sir. What was then the language of gentlemen in this House? That something must be done; and that unhappy opinion that something must be done, that some medicine must be taken, has destroyed many a patient, political, as well as individual: that *something* turned out to be the old non-importation

H. OF R.

Vote of Approval.

MAY, 1809.

act. After that, the disease, instead of yielding to the remedy, only became exasperated by it. Something more must be done. What was that, sir? The Embargo. When that was laid, was the existence of the British Orders in Council known? It was not; and I take the opportunity of saying so here, because I see it has been asserted in the British Parliament, by a gentleman of the first respectability for talents and character, that they were known here. They were not, as was, in my opinion, unequivocally demonstrated, on Saturday night, the 17th, and Sunday, the 18th December last, although that debate has been suppressed. I say they were not. The embargo was laid on the receipt of the documents expressing the determination of the French Government to enforce the Berlin decree, and the copy of the proclamation of the King of England, which last was cut out of a newspaper. I again repeat what I said and repeated that night, unknowing whether it will go to the public or not, that, in my opinion, the President of the United States acted with perfect propriety in sending us that newspaper information; that, though it was unofficial, it was proper to have been laid before this House as a guide to its decision; and it is an irrefragable proof, the President having sent us that paper, that he did not possess information, official or unofficial, on the subject of the Orders in Council, when he recommended, and we received, the proposition of the embargo. It cannot be gotten over, unless gentlemen are willing to admit, which I *totis viribus* deny, that the President of the United States was deficient in his duty, or that the newspapers of this place have earlier and more correct information on the subject of our foreign relations than our Government. I say, that by a recurrence to that message of the President of the United States it will be found that there was no knowledge in the Cabinet of the existence of those Orders in Council; for, although we received the British proclamation, we did not receive any information, of those Orders in Council, though I presume that something might have been apprehended without distinctly knowing what it was. The non-importation act was passed previous to the Orders in Council, and consequently did not grow out of them; and the embargo, though posterior, was recommended and received by this House before they were known either to the President or to this House, as the Journal and a comparison of that file of the National Intelligencer brought into this House on a former occasion will show. The non-importation and embargo acts were passed. They no longer exist—the one no longer exists at all; the other no longer exists as to Great Britain—and the removal of these obstructions was the alleged and true reason of the revocation of the Orders in Council, which were not moving considerations to passing the non-importation act or laying the embargo. This is the truth.

The withdrawal of the Orders in Council, out of which the non-importation and the embargo did not arise, may be considered as the cause of

doing away both the non-importation and the embargo, and the non-intercourse act besides; for the non-intercourse act did grow out of the Orders in Council and the affair of the Chesapeake—there is no doubt about that; or, more properly speaking, sir, the non-intercourse act grew out of the embargo; for, really, smarting under the tortures of that most wretched measure, this House and the nation were goaded to that pitch of madness, that a declaration of war from any quarter would by many have been considered better than our then situation. We were in a situation, in which if something be not administered to the suffering patient, he must die—and we took the non-intercourse act. We rejected, and (thank God for it!) not without some little of my instrumentality, the proposition to issue letters of marque and reprisal, which, if adopted, I leave to you and the House to decide whether we should have met in our present agreeable situation. Yes, sir, with the embargo, like a blister-plaster upon our backs, we were in such a situation that the Committee of Foreign Relations said, and we affirmed their decree, we must be disgraced or fight all the nations of the earth—fight all, fight nobly, fight like demi-gods. A worthy gentleman from South Carolina, (Mr. D. R. WILLIAMS, now not a member of the House, also thought that we must fight everybody—but he thought better of it, and was content to fight one, and to choose his antagonist. Gentlemen in the other House were of the same opinion; and they alleged they could not get at France, they chose to fight Great Britain. This was the situation in which we were placed by the operation of the embargo on the public mind. Sir, if we were not quite cool, like Sir Anthony Absolute, who has been quoted on the floor of the British House of Commons as the prototype of the British Minister, we were something like honest Bob Acres—fighting Bob, who was not sensible, till he was put to the pinch, how little he liked, really liked fighting—our fighting disposition, like his, oozed out of our finger ends, or rather our tongues' ends—and we are at peace. It is for these reasons that I hope this slur will not be cast on the Government of the United States, though I do not conceive that they greatly overreached their antagonist. But I am willing to concede they have done their duty, and to give them my approbation for having so done. Mr. Canning, to be sure, most dextrously seized upon our situation, but still our Government have shown how easy it is for men, when they set about it *bona fide*, with honest intentions, to make up a difference; and I have not the least doubt, that if His Majesty, the Emperor of France and King of Italy, will meet our *Pacificus*, a much more honorable designation than any in the long list of His Majesty's titles, that we shall be placed in the same state of amity in relation to France, in which we are in relation to Great Britain, in which we were five years ago, and from which we have, for reasons which gentlemen no doubt are prepared to give, so wantonly strayed. After all our friskings and curvettings, we have come back to the same point. All my fear is, sir, lest

MAY, 1809.

Vote of Approbation.

H. OF R.

the cure be not complete—lest some political wizard should discover that, inasmuch as in 1805, prior to the existence of the Orders in Council, we stood in need of the non-importation act, and as in 1807-8, prior to a knowledge of the Orders in Council, we stood in need of an embargo, for the same reasons we now stand in need of some other substitute—not the same, sir; for I undertake to say that we never shall have another embargo without limitation of time—it was indeed a horse medicine, but it has worked a complete cure. Really, sir, if we could have been brought to believe in 1805-6, that we could do as well without a non-importation act as we can now; in 1807-8, that we could have dispensed with the embargo as well as we can now—and, more especially, if we could have been brought to accept the treaty negotiated by our Commissioners at London, which treaty, to say the worst of it that its enemies ever pretended to allege, was only deficient as containing no express stipulation on the subject of impressment, and redundant as containing this note by way of rider, the object of which I have explained to the House, and which has been accomplished already, by undoing the non-intercourse, withdrawing the prohibition of our waters to British ships, and repealing the old non-importation act—if we had consented at that time to accept the treaty, we should not only have saved ourselves the price of the embargo—how many hundred millions our Secretary himself, great a financier and able a calculator as he is, cannot tell; I do not believe he could come within a hundred—but have avoided other disagreeable consequences.

Yes, sir; as to the note attached to that treaty, the object of that has been attained. The state of the two countries is materially changed for the better, as it regards England; and for the worse as it respects France. We should then have had the colonial trade placed in a most eligible situation—our East India trade placed on a better basis than our Commissioners were instructed to have it placed upon, viz: on the footing of the most favored nation. For, if Great Britain be, as we have heard, at war with Sweden, what are the terms on which the most favored nation is admitted? No terms at all. The terms obtained, therefore, were unquestionably better than the footing of the most favored nation. We should also have had an excellent stipulation as to the sea-line; but, above all, a practical arrangement of the great question of impressment. It now remains to be seen whether we shall obtain better terms in relation to impressment than that informal understanding. It now remains to be seen whether we shall obtain better terms from the Portland and Canning administration, than we have heretofore been unwilling to accept from the Grenvilles and the Foxes. If we do, sir, I shall most cordially rejoice at it; and I will, if gentlemen will tell me to which of the causes they ascribe it, whether to the promptness and frankness of our Executive in meeting the British Government half way, which I much applaud, or to the defeat of the British arms in Spain—if they will

but make up their minds how these better terms shall have been obtained, I will agree to the cause which they shall assign. If they scout the idea of their being ascribable to the present Administration, I will agree to ascribe them to the defeat of the English in Spain. I will only beg of them, when they wish to touch the chord of our good old Revolutionary principles, that they will not ascribe it to the defeats in Spain; and on the next occasion when their object is to do honor and blazon forth the merits of the men who conduct our affairs, that they will not ascribe it to the wise and most excellent measures of our former most sapient and virtuous Administration. I am willing to take either as the cause, but I will not subscribe to both, and as it shall suit their purpose. I protest against gentlemen's coming out upon us with the Spanish successes, and the wisdom of the Administration at the same time.

I am sensible, sir, of having detained your attention and that of the House, not only now but on many former occasions; much beyond what I had a right to do. It is an offence; and I am willing to confess it; but it grew out of the unprecedented manner in which I conceive a very unexceptionable motion has been met by gentlemen of this House. You cannot be ignorant, sir, that there are gentlemen in this House who, when their object is to obtain the passage of any motion however reasonable, certainly have to encounter greater difficulties than others; and who, when they see anything like opposition arising in a certain quarter of the House, like counsel addressing a jury supposed to be somewhat prejudiced against their cause, have to labor their points and to impress them much more than the counsel who knows that the ear of those to whom he speaks is attuned like that of a partial mistress to his addresses, and will put the most favorable construction upon them.

This subject which I have opened in regard to the renewal of intercourse with one of the belligerents, which I hope in time to see renewed with the other—and then, sir, we shall have choice whether we will begin again the cotillion of non-importation, embargo, and non-intercourse, or reap the rich harvest of neutrality like men of sense; whether we shall put the interests of the nation at stake, for the purpose of making very grand and warlike speeches on this floor—this change, on which I most cordially congratulate the nation, is a subject which I should not have opened at this time and in this manner if gentlemen had been willing to take my motion for what it is worth. If my motion had been taken at its current and actual value, I should have waited until I could have presented the points which I have endeavored to enforce in a more condensed form—for I have not even a note—and nothing but the manner in which this motion has been received has compelled me to endeavor to show that the motion ought not to be indefinitely postponed, to show that there does exist a difference of opinion in the nation and in the House in relation to the proclamation and the

construction of the non-intercourse law, and to show the means resorted to, and very ingeniously too, to smother and keep out of sight that difference of opinion. Those who think that America ought to take warning by all nations who have first resisted and soon after succumbed to the power of France, and that we ought, therefore, to bend the knee whilst we can do it with a good grace—and there are those who think so, for you see that opinion expressed in papers of a high character for their influence, (of no other character;) in one edited by an officer holding a high rank in your public armies—I believe I have the extract in my desk; I will read it—We have been told that “our bane and antidote [speaking of England and France] are both before us, and that after the examples of the nations of Europe who have first resisted and then succumbed to Napoleon, the people of the United States would be fools indeed if they did not see their course,”—which, I presume, sir, is succumbing first, without resistance. I see “the little State Governments” denounced too, and I confess I tremble; I see this country told that it is time to put them down; for that reason, and not from any deliberate hostility which I believe the gentleman from Virginia (Mr. GHOLSON) entertains for the State Governments, it was, that I was alarmed when I yesterday heard the doctrines of 1800 revived, that we ought to have little Federal courts for the trial of every possible controversy, that the State courts were not even to be trusted with the decision of suits to the amount of five pounds or even five shillings. If gentlemen suppose I throw out this in the spirit of an adversary they are much mistaken. Let us rally around the State Governments—pronounce with my friend from North Carolina (Mr. MACON) oblivion to former distinctions. Let us, if we do approve the policy by which the Administration have so much to their honor changed the affairs of this country—so much to their honor as to the *quo animo*, not as to the *quid pro quo* or value received—let us express it in moderate, decent terms, that it may be a guide to the Administration of the country hereafter, that it may be a sort of pacific pledge from ourselves to ourselves. I know the aversion of my friend on my left (Mr. MACON) to pledges—I hope he will excuse me. But do not let us give the thing the go-by, though the motion for so doing come from a member connected with the Administration (Mr. J. G. JACKSON.) If the President have done well, let us say so; if not, let us say nothing. If the majority be of opinion that the President has not done well, I am agreed so to decide. But I think the President ought to take a vote for indefinite postponement, as an expression of our opinion that we disapprove of his conduct, but will not directly express that opinion to him, from motives of delicacy.

Mr. HOLLAND said he had no doubt that the President had done his duty in the case referred to in the proposition under consideration; and as he had entertained no doubt but the President would, on this and every other occasion, do his duty, he said he felt no excessive joy on the oc-

casion. It was only an ordinary act of duty well performed, and therefore he was not willing to distinguish it from those numerous acts which he trusted would be, as they had heretofore been performed, by the Executive. Were he the author of the proposition, he should have many scruples as to the propriety of offering such a one. Were the precedent to be set by the passage of this resolution, the House might hereafter witness a struggle on the floor to determine who should be first to come forward with a proposition expressive of approbation. The human mind might be so operated upon that the Executive might feel himself under an obligation to promote the person bringing forward such a motion. I, said Mr. H., would be one of the last to introduce such a motion were I a friend to the President; and if I were not a friend to the President, I would not bring it forward, lest it should be thought that I was courting favor in his eyes. But why, sir, should this House give an expression of approbation of the President? Because, we are told, it may be a guide to him hereafter. Let this House be careful how it acts, and attend to its own duties. The President does not stand in need of this kind of support. I never will step forward, as a member of this House, to excite him to his duty by a vote of this kind. I believe he possesses an attachment to his duty sufficient to induce him to perform it. I believe that the voice of the people of the United States is such, in relation to the present and late President, that they believe they were well disposed to do their duty, and that they have done their duty; but it does not follow that we ought to express our approbation as to any particular act. The gentleman himself says that the President has only done his duty. Is it not surprising, then, that we are called upon to give him the approbation of this House? What would be inferred from this procedure? Why, that it is so seldom our Presidents have done their duty, that, in the very first instance in which they have done it, the House of Representatives had discovered and applauded it. If the gentleman thinks so, I wholly disagree with him. If our officers do their duty properly, they will receive the thanks of the nation; and where is the propriety of singling out for approbation or disapprobation this particular act? I see none. It is asked, will you leave the President of the United States to grope in the dark, and not let him know whether he has received our approbation or not? And is the President to judge from the thanks of the House that he has done his duty? How is he to know that they have expressed their sense of his conduct from proper motives? Would he not be right to suspect those who vote for, and more especially those who bring forward such a proposition, of improper motives? He would be left still worse to grope in the dark. It has been said that former Presidents have been deceived in consequence of votes of approbation; and the same would again occur. On every ground I am opposed to the passing such resolutions on principle, and shall therefore vote for indefinite postponement.

MAY, 1809.

Vote of Approval.

H. OF R.

Mr. J. G. JACKSON observed that the resolution offered by the gentleman from Virginia was, that the promptitude and frankness with which the President of the United States has met the overtures of the Government of Great Britain, towards a restoration of harmony and a free commercial intercourse between the two nations, received the approbation of this House; and that the amendment of the gentleman from Massachusetts declared that it furnished an additional proof of the spirit of accommodation on the part of the Government of the United States, which has at no time been intermitted. I do not hesitate to declare my firm conviction, said Mr. JACKSON, that the propositions contained in the motion and amendment are true; that, if it be necessary or proper for this House as a part of their duty to express an opinion on them, they ought to be adopted. If a direct vote must be taken, I shall be in the affirmative; but, notwithstanding my belief that the facts alleged are irrefragable, I am opposed to a deviation from what I conceive to be the duty, and becoming the dignity of this House, by expressing them. It is true, sir, that the assertion contained in the amendment has been denied in some of the partisan newspapers of this country; but hitherto I had understood and believed that it was, as far as respected the opinions of members on this floor, unquestionable; and it is not without some surprise that I have just heard the gentleman from Virginia denying it in the most unequivocal manner. It is not because I fear the result of a vote on the amendment that I am unwilling to have it taken; my objections are of a different character. I think the House have nobler duties to perform than passing abstract resolutions, out of which no legislative act is contemplated, merely for the purpose of pouring the oil of adulation upon the head of the Chief Magistrate; and, according to my conception, the gentleman from Virginia has made an attack on the principles he professes, and upon the independence of this House, which will, as a precedent, be productive of lasting injury. If the course he proposes be a correct one, and we are to pass votes of approbation upon all the leading measures of the Executive, who among us, that may happen hereafter to disapprove any, will venture to oppose, without endangering his standing with the people? I take a wide distinction between the propriety of approving, and the right of condemning. If the President, or any other high officer of the Government, violate his duty, it becomes ours to animadvert upon his conduct; but we ought to leave to the people, whose province it is, and who are competent to judge for themselves, whose discernment is not to be eluded by our votes approbatory of a bad measure, or condemnatory of a good one, that decision which they have already pronounced in a style as emphatic as it is audible. And what good, I pray you, can result from this resolution? Those who had always denied that the Administration possess any patriotism or virtue, will, to be consistent, find it necessary to oppose votes of this kind, and, instead of doing the ordinary bu-

siness of legislation, we shall employ our whole time in discussing propositions capable of doing no good, likely to produce much evil. But we are already met with a charge that we condemn the accommodation, and are afraid to meet the question. I repeat, sir, I am not inimical to it, for I am highly pleased, and the friends of Administration derive a triumph from it, that the spirit of accommodation, which has at no time been intermitted on the part of our Government, was met at last by a correspondent disposition on the part of Great Britain.

I did not expect, sir, admitting gentlemen were of opinion that there has not been a spirit of accommodation displayed on the part of the Government at all times, and that they have even acted with duplicity, that we were now to enter into an examination of the measures of this country for five or six years past; and it will be with much reluctance that I shall follow the gentleman by touching, however lightly, on the various topics discussed in the wide range that he has taken; nor did I expect from that gentleman an eulogium on the non-intercourse law, which he pronounced, only three months ago, to be fraught with much evil, and which, to-day, he affirms, by placing the two belligerents on an equal footing, was the cause of the rescission of the Orders in Council, inasmuch as it admitted the British Government to treat without inflicting a wound on their pride. It is asserted by the gentleman that the recent arrangement is entered into by Great Britain on very different terms from those offered last summer through our Minister at London; because, first, the non-importation law is now repealed; and, secondly, that, having prohibited British ships alone by the proclamation of the President from entering our ports, it was highly offensive to Great Britain, and we have done away the discrimination which existed between them and French vessels. I contend, sir, that the gentleman is wrong in his position, and that the offer made to Great Britain, and rejected, was not worse, but better, as regards her pride or interest, than that now accepted; and the offer of Mr. Pinkney by order of the President, was, of itself, a strong proof of the spirit of accommodation which has been evinced by the Government. In the offer made to Mr. Canning, the American Government proposed to suspend the embargo so far as related to Great Britain, on a revocation of the Orders in Council merely as respected us—to renew our trade with them, and prohibit it with France. It was not only contumeliously rejected, but Mr. Canning declared that the formal abandonment (a tacit relinquishment of them was not sufficient, but a formal abandonment) by France of her decrees was an indispensable prerequisite to a repeal of the British Orders in Council.

There is no mention made of the French decrees or of our non-intercourse with France in the late correspondence, and his Britannic Majesty withdraws his orders of January and November, merely on condition that we will renew the intercourse with Great Britain. The indispen-

H. OF R.

Vote of Approbation.

MAY, 1809.

sable prerequisite is forgotten, all mention of France is pretermitted, and in that view the late accommodation has given up more than we asked in September last. How, then, can the gentleman insist that the terms on which the late adjustment was made are more favorable to Great Britain than those rejected last summer? He relies, however, upon the repeal of the non-importation law, and the merger of the proclamation issued in consequence of the affair of the Chesapeake; in the general prohibition of British and French ships of war as materially changing the state of our relations with Great Britain, and by placing her on a footing of equality with France, has given an opportunity to propose terms. Sir, I did not suppose that the affair of the Chesapeake, and the proclamation which grew out of it, would have been introduced here as a proof of the want of a spirit of accommodation on our part. Am I mistaken in supposing that the gentleman himself did on this floor condemn the President for not calling Congress together sooner to take higher ground, under the idea that the proclamation was a weak measure? [Mr. RANDOLPH stated he had never said so.] Sir, it seems I am mistaken in ascribing such a declaration to the gentleman. I ask you, sir, if the indignation of the people could, without difficulty, be appeased with the measure, such as it was, and whether it would have been consistent with that honorable feeling to have revoked it for the purpose of preventing a tax on our exports imposed by the Orders in Council? Let it be recollected, sir, that the affair of the Chesapeake was treated of distinct from all others, and never blended with any other, except that with which it was necessarily connected, viz: a provision against impressment from on board of vessels sailing under the American flag, and that connexion was disregarded in compliance with the wish of Great Britain.

The equality in the restrictions imposed by us grew out of posterior acts of the French Government. France had not invaded our national jurisdiction, had not murdered Pierce, or taken the Chesapeake; even admitting her other attacks were equally flagitious with those of Great Britain—and the only discrimination made as consequent on those injuries, was the partial non-importation law, and the prohibition to enter our waters with their armed vessels—afterwards, when France, to the extent of her power, attacked our rights, we prohibited the vessels of both nations, and their manufactures, from entering our harbors; and how an exclusion of all articles and all vessels by law, was a more favorable state of things to Great Britain than the partial exclusion of either, at a time when the few French that ventured upon the ocean, and escaped capture, were admitted, it remains for that gentleman (Mr. RANDOLPH) to demonstrate. In the very sentence wherein the gentleman approves of the conduct of Government, he tells us that Great Britain has conceded nothing. We have obtained an important concession, inasmuch as reparation is made for the attack on the Chesapeake, and

Mr. Erskine was instructed to offer an abandonment of the Orders in Council without a repeal of her decrees by France, or a promise to refuse trading with her, but merely on a renewal of intercourse with Great Britain; which, I repeat it, is obtaining better terms than we offered to accept. Then we were told that, unless the French decrees were formally rescinded, the orders would be adhered to. Now, the British orders are abandoned, whilst the French decrees are unrevoked. Mr. Monroe's Treaty is drawn into discussion, and the gentlemen says that the objection to it was, because there was no provision against impressing seamen; and we, nevertheless, come to an accommodation now without any such provision. Does the gentleman recollect that, when the affair of the Chesapeake took place, all negotiation had been suspended for some time, and, except in relation to it and the Orders in Council, has never been renewed? The affair of the Chesapeake was a barrier to all other negotiation; it was impossible, at a time when the blood of our citizens was crying for vengeance, and the survivors were confined in slavery worse than death, it was impossible to sit down coolly and calculate how far the East India or Colonial trade could be given up by us. Nothing could be done in relation to minor points of difference, when higher paramount concerns pressed upon us. But does it follow, sir, because these points are not now settled, that the seamen are to be abandoned, that the West India trade is to be given up? That all points of collision are to be considered as conceded? The negotiators have wisely deferred the subject, for we are informed that a Minister, with ample powers, will be sent here to negotiate a treaty, and we ought to suspend our opinions until it is concluded. The gentleman says that another objection to the treaty was on account of the British note, that it was opposed, because it tended to bring us in collision with France, and now we have done what it required of us. Sir, there were various objections to that note; one was, that Great Britain attempted to bully us into the course she wished us to pursue, to compel us to give "security to His Majesty," that we would not submit to the attack made by France on our rights. Now, although we did not and would not submit, we could not tolerate such arrogance in Great Britain.

The note, however, says the gentleman, was no part of the treaty. It was certainly communicated by the British Government as forming an indispensable condition of it; and the British Commissioners in the correspondence with Mr. Canning, which I read to the House at the last session, stated expressly that the treaty was a perfect instrument, no reservation was annexed to it, except the note in question, which maintained the right to chastise us in case we did not resist France; and Mr. Canning repeats the assertion to our Ministers. The gentleman has gone on to say that Mr. Monroe could have received reparation for the attack on the Chesapeake, if his instructions concerning seamen, which were blended with it, had permitted him. On this point

MAY, 1809.

Vote of Approbation.

H. OF R.

I have the correspondence before me, which must satisfy the gentleman that it is wrong. As soon as the attack on the Chesapeake was known, the President issued his proclamation, and on receipt of it, Mr. Canning wrote a letter to Mr. Monroe, in which he says:

"Before I proceed to observe upon that part of it which relates more immediately to the question now at issue between our two Governments, I am commanded, in the first instance, to express the surprise which is felt at the total omission of a subject, upon which I had already been commanded to apply to you for information; the proclamation purported to have been issued by the President of the United States. Of this paper, when last I addressed you upon it, you professed not to have any knowledge, beyond what the ordinary channels of public information afforded, nor any authority to declare it to be authentic.

"I feel it an indispensable duty to renew my inquiry on this subject. The answer which I may receive from you is by no means unimportant to the settlement of the discussion which has arisen from the encounter between the Leopard and the Chesapeake."

And he goes on to urge the impropriety of making any atonement during the existence of the proclamation. And I ask again, sir, would the nation have been reconciled to the apathy of the President if he had neglected to breathe forth its spirit, feebly as it was done, in the forbidding British armed vessels the use of our waters? Whilst the men (except the one whom they hung in Halifax) were retained in bondage, and the outrage had the sanction of a high officer of the British Government, which induced the belief that it was with its authority that the act was committed, could the proclamation have been rescinded or a less friendly measure have been resorted to?

The gentleman says, the Orders in Council were made inoperative by our measures, and to give them up was, in fact, to yield nothing; that they were to prevent our trade to France, and we have prevented it ourselves, and therefore Great Britain conceded nothing on that point. It was not upon a trade to France alone that the orders operated, but upon all nations from whose ports the British flag was excluded, and even from some who never had made any such regulations; but, independent of this, suppose France, without relaxing in her hostility towards Great Britain, admitted our vessels freely, although they had entered a British port, and been spoken by a British cruiser, and in consequence of such relaxation the trade with her was renewed; what, then, would have been the effect of the British Orders? We should still be subjected to the payment of tribute. We are not *now* compelled to go first to Great Britain, pay tribute, and receive His Majesty's license to carry on our accustomed trade, therefore a repeal of the orders is a most important measure. Sir, in the wide range of debate the gentleman has repeated his old argument, that the Orders in Council were not known in this country when the embargo was laid. Afterwards he qualified it, by saying they were not known in the Cabinet at the time the President

recommended the embargo. If, sir, the Executive knew nothing of them it is surprising, because the purport of them had been published in the National Intelligencer in this city, and in two or three papers printed in New York and Philadelphia, which were received here previous to the Message of the President. They even stated the date at which his Britannic Majesty's signature would be affixed to the orders, and gave minutely the purport of them. The President, in his Message, not only referred to the papers then enclosed, but "the great and increasing dangers" to which our commerce was exposed, thereby alluding to what had come to his knowledge through the medium of the newspapers, as understood to have been determined on by the British Government, but not known so formally as to authorize express mention of it.

Sir, the people of the United States are enlightened and intelligent, they do not wait for this House to spirit them on to an examination and decision of great national questions, and our vote of approbation or disapprobation will never check or lull their spirit of inquiry; they have already approved the act of the President, and, whether they have or not, it is improper for us to enter into abstract resolutions, regardless of our Legislative duties, and thereby establish a precedent alike dangerous and invasive of our independence.

Mr. J. concluded his observations by remarking, that he could not conjecture what the dangerous doctrine, said to have been advanced by him yesterday, had to do with the question. He controverted the opinion of Mr. R., however, in relation to the doctrine of Federal judicial power as conferred by the Constitution, and made some remarks on the subject of State and Federal rights.

Mr. FINDLEY said, if he was not mistaken, the motion now before the House was for postponing indefinitely the resolution submitted by the honorable gentleman from Virginia, (Mr. RANDOLPH.) I will vote, sir, said Mr. F., for the postponement, and for the same reasons that I opposed the novel resolution when it was first submitted for consideration to the House; but, believing the impropriety of the resolution to be on the very first impression so evident as to require little explanation, it is probable that my objections were offered in so concise or so confused a manner as not to be well understood. Indeed, they were the hasty result of the moment, excited by such a resolution as I believe no member of Congress ever offered before, and which there was no reason to expect on this occasion. I am opposed to it on correct Legislative principles.

It is, sir, my opinion, that the resolution is wholly out of order; that it ought not to have been made; that it ought not, when offered, to have been considered or discussed by the House.

This House is one branch of the Legislature of the United States, it possesses no powers but what are transferred and specifically prescribed; they do not possess general powers on all cases not specially excepted, as the State Legislatures do.

H. OF R.

Vote of Approbation.

MAY, 1809.

In this I know the honorable mover, from Virginia, will agree with me. I then ask, by what article or section of the Constitution we are authorized to approbate, discuss, or censure the conduct of the Executive? But, leaving the Constitution for a moment as a dead letter, and resorting solely to the rules of the House, I ask, by what rule are we authorized to decide on this resolution, or for what purpose?

This House is one branch of the Federal Legislature, authorized to originate laws, or to concur with such as may be originated by the Senatorial branch; these laws may be passed in the form of bills or of Legislative resolutions; but, in either case, they must be agreed to by both Houses, and approved by the President. The House has, indeed, other incidental powers; they are judges of the elections and qualifications of their own members, and are authorized to punish or to expel a member. These powers are necessary towards carrying their Legislative powers into effect, and therefore, even if they had not been expressly vested, they were necessarily implied. They are also invested with the powers of impeaching public officers, and of sustaining the character of prosecutors before the Senate. These are all the powers I can find vested in this House by the Constitution.

This resolution is not even professed to be the foundation of a law, or to have any effect as a rule of conduct for the citizens, nor to be for impeaching the President, or any other public officer, nor does it relate to the proceedings of our own House, or the conduct of our own members; therefore it is not, it cannot be constitutionally before the House. The people of the United States have, by the Constitution, vested this House with the power of disapproving the conduct of public officers by impeachment, and by that only; or of the measures recommended by the President, by rejecting them, or treating them with neglect; this has probably been done by every Congress: but the people have reserved the right of addresses of approbation or censure in their own hands, and assuming it by this House would be a usurpation of powers, and a precedent for other usurpations.

Mr. Speaker, if I am mistaken in this, every Congress, since the commencement of this Government, has been also mistaken. I am confident the honorable gentleman from Virginia cannot lay his hand on such a resolution in the Journals of Congress. He has admitted on this floor that, in this case, the President did his duty, but not more than his duty; that, in so far as the law authorized discretion, as it certainly did with respect to time and manner, and the confidence to be placed in the declaration of the British Minister, he has acted with propriety; he has also highly applauded on this floor the first four years' Administration of the late President; but he himself nor any other member, it is believed, never submitted a resolution to the House for a Legislative approbation of his conduct, during even that four years of perfection; no such resolution was submitted or passed respecting the conduct

of WASHINGTON, with respect to the choice of whom there were no parties; no such resolution was submitted or passed with respect to Adams by the majority, who were the friends and supporters of his Administration; in short, there is no example of the kind on the Journals; therefore, I am justified in calling this resolution a novelty. But it may be asked, has this House no method within its power of approving of the Executive measures? It certainly has.

Let Congress, sir, pass laws to carry the measures of the Executive into effect, as to correspond with them. This, and this only, is a Legislative expression of approbation, and the highest that can be given. Law is the only language of a Legislature; it is the only language that can command obedience or respect. Any equal number of citizens met in a tavern, and there passing a resolution of approbation, would have equal force with such a resolution passed in this House, and would be more in character. For, admitting and discussing this resolution, the House is not acting in its legislative character, but as individual citizens, and in fact degrading the legislative character. They are acting without authority from the Constitution or the rules of this House.

When this Government commenced, after the example of the British Parliament, the President made his communication to both Houses at the opening of a session, in a speech, to which the Houses prepared an answer; and frequently such an answer as anticipated the most prominent measures of the session, to which such amendments were generally moved and discussed, as brought forward all the party artillery and irritation which the House contained, before any progress was made in the proper business of the Legislature. We have seen, sir, two weeks of the beginning of a session spent in this way, and party irritation excited to the greatest height, not only in but out of the House, before legislation commenced. I confess I rejoiced when this method of corresponding with the Executive was changed.

In support of the resolution, however, the gentleman states that there is a difference of opinion on this subject, both within and without this House, and to prove this has read part of a paragraph out of a newspaper, conducted by an influential military officer; but I confess so much of this as he read comes short of proving the truth of this, in my opinion. I have said when I was up before, and I repeat it again, that I know of no such difference of opinion, and since the measure was made public, I have conversed with many citizens of different counties and States, and read many newspapers. All I have conversed with agree that the President did his duty in exercising the authority vested in him by Congress on this occasion, and as far as I am acquainted, it is the general opinion that the late President equally discharged his duty with respect to the same subject; this is fully testified by the present President in the correspondence with the British Minister. If this is true, as I certainly believe it is, he is equally entitled to a vote of approbation as

MAY, 1809.

Proceedings.

H. OF R.

the present President. But the gentleman (Mr. RANDOLPH) has exerted his ingenuity to prove that this is not true. Here is a difference of opinion, but not such as can have any effect on the measures now before Congress.

If we sanction this resolution by our vote, where will it end? In what instances shall we give a vote of approbation, or in what shall we withhold it? The gentleman knows well that, by voting in the negative, it will appear to be a vote of censure against what we really approve. It would be easy, in the course of a session, to promote twenty or fifty such votes. If we have a right to pass abstract votes of approbation, we have the same right to pass votes of censure, and to condemn, unheard, by a hasty resolution of one House, and, by so doing, turn this House into a council of censors. Such Pennsylvania once had, in which I sat, but it had the power of censure only, and not of approbation; this the people kept in their own hands, and officially expressed it at their elections.

Is the gentleman (Mr. R.) really so fond of party contests as to urge this unprecedented resolution, merely for curiosity, to find some new source of party divisions? This will be fairly put to the test on passing the laws on the subjects already referred to select committees, for carrying the measures communicated by the President into effect, on which, I trust, there will be little difference of opinion. I will vote for postponement; if not postponed, for the amendment offered by the gentleman from Massachusetts. The members will certainly take time to deliberate before they vote for such a useless and such a dangerous precedent; they will reflect that such resolutions as these, not warranted by the Constitution, are not subject to the revision of the other branch, nor to that course of deliberation in this House that is necessary on passing laws. They will reflect that agreeing to the resolution can do no good, but that the example, if drawn into precedent, must do much harm. With respect to individual members, they have abundant opportunity of censuring or of approbating in their debates on the floor, of which they frequently avail themselves with little restraint.

When Mr. F. had concluded, an adjournment was called for, and carried.

SATURDAY, May 27.

On motion of Mr. BASSETT, a committee was appointed, jointly, with a committee of the Senate, to inquire what business it is requisite should be done at the present session, and report to the House. Mr. BASSETT, Mr. RICHARDS, Mr. WHEATON, Mr. COX, and Mr. CRIST, were appointed the committee.

Mr. NEWTON, from the Committee on Commerce and Manufactures, presented a bill authorizing the issuing of debentures in certain cases; which was read twice, and committed to a Committee of the Whole on Wednesday next.

Mr. QUINCY presented a petition of the sugar refiners in the town of Boston, State of Massa-

chusetts, praying that a law may be passed granting a drawback on refined sugar exported to any foreign port or place, equal to the duties paid on the importation of brown sugar.—Referred to the Committee of Commerce and Manufactures.

Mr. POINDEXTER presented a report of the Land Commissioners West of Pearl River, in the Mississippi Territory, together with abstracts of their decisions in the case of non-resident British grants; which were referred to the Committee on the Public Lands.

On motion of Mr. NICHOLAS R. MOORE, Resolved, That Thomas Claxton be, and he is hereby, authorized to employ, under his immediate direction, one additional assistant, five servants, and two horses, for the purpose of performing such services and duties as are usually required by the House of Representatives, during the present and next session of Congress, and for four days after the terminations of each; and that he be allowed therefor nine dollars per day, and be paid out the fund appropriated for the contingent expenses of the House.

On motion of Mr. BURWELL, Resolved, That the President of the United States be requested to cause the Secretary of War to lay before this House an estimate of the sums necessary to complete the fortifications commenced or contemplated; and, also, the amount of any deficiency of former appropriations for this object.

On motion of Mr. NEWTON, the unfinished business depending yesterday at the time of adjournment was ordered to lie on the table.

The House then resolved itself into a Committee of the Whole on the bill respecting the ships or vessels owned by citizens or subjects of foreign nations with which commercial intercourse is permitted; and, after some time spent therein, the bill was reported without amendment, and ordered to be engrossed and read a third time this day.

The House proceeded, by ballot, to the appointment of a Chaplain to Congress, on their part; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of the Rev. JESSE LEE.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives:

I now lay before Congress the report of the Secretary of War, showing the progress made in carrying into effect the act of April, one thousand eight hundred and eight, for raising an additional military force, and the disposition of the troops.

JAMES MADISON.

MAY 26, 1809.

The Message and report were read, and referred to the committee on that part of the Message of the President of the United States which relates to the Military Establishment.

An engrossed bill respecting the ships or vessels owned by citizens or subjects of foreign nations, with which commercial intercourse is permitted, was read the third time, and passed.

H. OF R.

Sufferers under the Sedition Law.

MAY, 1809.

On motion of Mr. RANDOLPH, a committee was appointed to take into consideration the act, entitled "An act for establishing rules and articles for the government of the armies of the United States," and to report whether any, and what, alteration it is expedient to make in the same.

Mr. RANDOLPH, Mr. STANFORD, Mr. CAMPBELL, Mr. HEISTER, Mr. GOLD, Mr. PICKMAN, and Mr. HURTY, were appointed a committee, pursuant to the said resolution, with leave to report thereon by bill, or otherwise.

VOTE OF APPROBATION.

Mr. RANDOLPH called for the consideration of the unfinished business of yesterday; and on the question, will the House resume the consideration of the subject, the House divided 54 to 54; and the Speaker voting in the negative, the motion was lost. Mr. RANDOLPH subsequently gave notice that he should call it up every day during the session if he had an opportunity, and require the yeas and nays each time, unless the House should agree to take it up.

SEDITION LAW.

Mr. STANFORD said he had risen to offer a resolution, which he wanted to have offered immediately after that which had been offered by a gentleman from Virginia, (Mr. RANDOLPH,) and adopted by the House, on the subject of prosecutions for libel at common law; but not being able to get the floor, he would now beg leave to move his by way of instruction to the same committee. That committee, Mr. S. said, had been charged with an inquiry into what prosecutions for libel at common law had been instituted in the courts of the United States, which he hoped the committee would duly make, and lay before the House. Thus the House would see what system of persecution, if any, had been resorted to, and cherished by the late Administration or its friends, in any part of the United States; and he equally hoped some remedy might be devised at this time, the beginning of a new Administration, to obviate any like occurrence in future. But, said Mr. S., let it not be that anything be done partially. While we are about to bring to our view all the cases of prosecution for libel under the common law, we are not likely to know anything about prosecutions for libel, which had occurred under the sedition law, and that too under a different Administration. We have not authorized any such inquiry. That abuses have occurred under both, is but too probable, and I think it will be liberal, as it is just and fair, to make the inquiry more general on the subject. If any citizen has been oppressed or injured by such prosecutions, let it be known, and let justice be done him; even now, if with propriety, any way can be devised to do so. Inquiry, however, is all that is asked for the present.

It may be perceived, said Mr. S., and if not, I wish it should be understood, when I speak of justice being done, that I speak with rather peculiar reference to a gentleman of this House, who has been a principal sufferer under the well known

sedition law. I think it never too late to do justice, under whatever circumstances or motives of policy it may have been withheld for a time. I trust no gentleman will, upon this occasion, suspect me of a design to excite any party feelings. It certainly is not my wish, whatever may be the effect. The resolution I am about to offer is not so framed, nor would it necessarily involve the question of the constitutionality of the law. I feel persuaded, therefore, that the different gentlemen of the House may, from a spirit of liberality and fair concession, indulge the inquiry asked for.

But, sir, said he, since the other inquiry has been gone into, it cannot be unfair to say that the majority of the House owe it to themselves to extend the inquiry, as well to cases of prosecution under the sedition law, as to those under the common law; and I shall be permitted to say also, they owe it as well to the feelings and sufferings of the gentleman to whom I have alluded. Whatever may be the aspect of political opinions and parties now, it is known to you, sir, and a few others on this floor, that to him much is due for the present ascendancy of the majority; perhaps to no one more, to the extent of his sphere of action and influence. In the famous contested election for President in this House, eight or nine years ago, he gave the vote of a State, which sufficed to decide the contest; and more especially so, if the blank votes of the State of Maryland could have rendered that vote doubtful. But, however such considerations may or may not avail, nothing is more clear to me than that the inquiry should be indulged on the most liberal principles.

Resolved, That the committee, appointed to inquire into what prosecutions for libels at common law have been instituted before the courts of the United States, be instructed to inquire what prosecutions for libels have been instituted before the courts of the United States under the second section of the act entitled "An act in addition to an act, entitled 'An act for the punishment of certain crimes against the United States,'" passed the 14th day of July, 1798, and the expediency of remunerating the sufferers under such prosecutions.

Mr. SAWYER moved to amend the resolution by adding, at the end of it, the words "and that the committee also inquire whether any and what private compensation has been made to such suffering persons."

Mr. MACON said he did not know how the committee could go about to make such an inquiry as that contemplated by the amendment. The gentleman must be well satisfied that the Government could not rightfully inquire into transactions between individuals.

Mr. DANA said that he had no particular objection to meet this inquiry. As to the disclosure of facts as to the reimbursement by individual contribution, it might be amusing, if this House had authority to make it. He said he should like to know who contributed to the relief of James Thompson Callender, when he was prosecuted; but he had some doubt whether it was proper to enter into any inquiry, or whether it was proper to pass the resolution pointing to the remuneration of sufferers under the sedition law. He should

MAY, 1809.

Sufferers under the Sedition Law.

H. OF R.

have supposed that it might be proper to leave it at large for the committee to report. He said he had certainly no objection to inquire, though he conceived that prosecutions at common law and under the sedition law were essentially different; because, supposing the Congress of the United States to pass such a law, the courts of the United States might take cognizance of it; but, without such a law, it did not belong to the judiciary to extend its care to the protection of the Government from slander. Such was the decision of Judge Chase (said Mr. D.) who decided that the court had no jurisdiction at common law in suits for libel; and the Supreme Court of the United States never did decide the question. The strong contrast is this; that while there was a description of men who said that no prosecution could be had at common law for libel, nor under the statute which modified the common law so as to allow the truth to be given in evidence—who, while they excited indignation against this statute, should afterwards undertake to institute prosecutions at common law where there was no limitation in favor of the defendant. There is this difference in the cases; that we find practice precisely different from professions. I do not say that the heads of departments were instrumental in instituting these prosecutions; but it marks some of the subordinate men who were active in making professions. I am very willing that the proposed inquiry should be made; but I cannot see the propriety of our undertaking to give any opinion as to remunerating those who suffered.

Mr. STANFORD said:—Mr. Speaker, I would ask if my colleague's motion of amendment can be in order? It is no concern of this House, or of the Government, what private contributions may have been made to the gentleman from Kentucky; and, if it was, the inquiry is impossible. [The SPEAKER said, not being able to enter into the views of the mover of the amendment, he considered the motion in order.] Then, said Mr. S., if my colleague is anxious to know what he could not otherwise know, I will tell him I had contributed a small sum to the gentleman from Kentucky, as a sufferer in what was then considered a common cause; but, upon his return to his seat in the House, he could not brook the idea of such a contribution, and returned the amount to myself I know, and to others I believe. My colleague would do well to tell us how much he contributed. It was well known contributions were made in a quarter not far from him; and if he did not, I am well persuaded it was not for the want of sympathy on his part, or extreme zeal in the democratic cause; for I am confident I have seen as much or more seditious matter from under his pen, than I ever saw from under that of the gentleman from Kentucky. Be that, however, as it may, I am for one willing, if no Constitutional difficulty can be shown, to remunerate the sufferers—at least to take such money out of the Treasury, and restore it to its original, rightful owners; and if it cannot be consistently done, why the inquiry can do no harm. But, indeed, we have great examples in the case before us. Did

not the late President, when he came into place, refuse to let such money come into the Treasury in the case of the worthless Callender? As the proper authority, he thrust it from him as unworthy the coffers of his country; and did not his doing so meet general approbation? I confess it met mine most cordially, and I believe it did that of my colleague also. Have we not, moreover, the best recorded proof that the present President holds similar opinions on this subject? His splendid opposition to the sedition law is the proof to which I allude, and is, in my mind, conclusive on this subject. But if it were not, where is the impropriety of an inquiry? The House will be better able to decide when the whole matter shall come fairly before them.

Mr. QUINCY said this appeared to be a proposition to aid a single individual; and, by the amendment, gentlemen who had aided that individual were anxious to prevent him from gaining more than he had paid. It was a kind of application to the House to repay to those persons who relieved the sufferers under the sedition act, the sums which they had paid. If this were the object, Mr. Q. suggested whether it would not be proper for them to come forward and lay their claim in the ordinary form before the House.

Mr. SAWYER said he was, as he always had been, willing to contribute his mite to the relief of the sufferers; but he did not wish to see them remunerated from the public Treasury.

Mr. LYON.—I have for some time been in suspense whether I ought, or ought not to make any observations on the subject before the House; delicacy on the one hand bids me be silent, while a duty I owe to myself, to my family, and to the nation, requires (that since my particular case has been alluded to,) the members of this House and the public should be made acquainted with many of the circumstances of that case, which have either never come to their knowledge, or have long been buried up among the consumed heap of political occurrences, disputations and publications of these days. Besides, sir, I have it in my power to throw much light on the subject of the inquiry wished for, by the gentleman from North Carolina (Mr. SAWYER) who has proposed the amendment under consideration, and I will assure the gentleman that I shall not be backward in doing so. It is true, sir, that I was unjustly condemned to pay a fine of one thousand dollars and to suffer an ignominious imprisonment of four months in a loathsome dungeon—the common receptacle of felons, runaway negroes, or the vilest malefactors—and this when I was the Representative of the people of Vermont in this House of Congress. It cannot be said there was no other room in the prison, there were rooms enough; yes, sir, one of my judges during my imprisonment found another room in the same jail to be imprisoned for debt in, until he gave bonds for the liberty of the yard. To heighten the picture exhibited by official tyranny, and to add to the cruel vexation of this transaction, I was carried out of the county in which I lived, fifty miles from my family, kept six weeks without fire in the months of October and November,

H. OF R.

Sufferers under the Sedition Law.

MAY, 1809.

nearly the whole of which time the Northwest wind had free admittance into the dungeon, through the same aperture that admitted the light of heaven into that dreary cell. And let it be asked, in these days of the mild reign of Republicanism, for what crime was all this extraordinary, this ignominious punishment inflicted?

I hold a copy of the indictment in my hand which includes the charge against me. I will not trouble the House with a recital of the technical jargon and tedious repetition of words, of course, which constitute the bulk of such instruments. No, sir, but I will read the identical words of the charge, which says, that on the 20th of June 1798, Matthew Lyon wrote a letter to Alden Spooner of Windsor, Vermont, in which he said, "as to the Executive, when I shall see the efforts of that power bent on the promotion of the comfort, the happiness, and accommodation of the people, that Executive shall have my zealous and uniform support. But whenever I shall, on the part of the Executive, see every consideration of the public welfare swallowed up in a continual grasp for power, in an unbounded thirst for ridiculous pomp, foolish adulation, and selfish avarice—when I shall behold men of real merit daily turned out of office for no other cause but independence of sentiment—when I shall see men of firmness, merit, years, abilities, and experience, discarded in their application for offices for fear they possess that independence; and men of meanness preferred for the ease with which they take up and advocate opinions the consequence of which they know but little of—when I shall see the sacred name of religion employed as a state engine to make mankind hate and persecute one another, I shall not be their humble advocate."

This is the whole of my crime, and what do those words amount to. Who is here that hears these words, but what approves the sentiment they contain? What do I say in these words, other, or more, or less, than that when the Executive is doing right, I will support him—when doing wrong I will not be his humble advocate? This ought to be the creed of every member who enters these walls. Was there to be an oath or abjuration added to the Constitutional oath to be taken by the members of this House, can any person who hears me, devise a better, or one more proper? Could any person who really thought Mr. Adams quite clear from all those improprieties, as merely possible from the nature of man, mentioned in my letter, have thought of my libelling the President by this declaration? I presume not, sir. Yet this my crime, received one of the condemnations which you are called upon by this motion to constitute an inquiry into—an inquiry I cannot persuade myself will be refused. The letter, sir, was an answer to a violent invective against me, published in the same paper a short time before, in which besides a number of other charges against me, it was imputed to me as a crime that I acted in opposition to the Executive.

I did not begin the altercation. A person who was a friend to the Adams' administration, in the

act of libelling me, (one of the constituted authorities,) ushered the Executive into his performance. My character, ever dearer to me than life, was concerned. I deigned to answer him, after expostulating with him on my right as one of the constituted authorities of the nation to exercise my own judgment in my official conduct, and showing that my merely differing with the Executive proved no more than that the Executive differed with me. I incidentally proceeded in the words for which I was indicted, the very words I just now read. I was charged with neither more or less as coming from my pen. As if to outrage every principle of law and every sentiment of decency and propriety, this indictment, founded on the sedition law passed on the 14th day of July, 1798, charges me with having in Philadelphia on the 20th of June prior, written a letter to Alden Spooner of Vermont, which contained those words I have been reciting. My letter was produced in court and carried the Philadelphia post-mark of some day in the same June, I do not recollect which day; Judge Patterson himself admitted this fact, and that it was out of my power and control in the June before the sedition law was passed. Thus the indictment, which was the foundation of the barbarous treatment I received, carried on its front its own condemnation; but this defect was remedied by the ingenuity of the party judge, who dextrously mingled his assertions that the crime was cognizable under the common law, with his admonitions to a pliant jury not to be deterred from finding a verdict where the man who wrote was a member of Congress, and knew the sedition law was about to be passed, and probably hurried his letter to evade the law.

It may be said, sir, that I was charged in the indictment with publishing a copy of a letter, from an American diplomatic character in France, to a member of Congress, commonly called the Barlow letter. I was so, and there was a third count in the indictment for aiding and abetting in the publication of said letter. The words selected as seditious were as follow: "The misunderstanding between the two Governments has become extremely alarming: confidence is completely destroyed; mistrust, jealousy, and a wrong attribution of motives, are so apparent as to require the utmost caution in every word and action that are to come from your Executive; I mean if your object is to avoid hostilities. Had this truth been understood with you before the recall of Monroe, before the coming and the second coming of Pinkney, had it guided the pens that wrote the bullying speech of your President, and the stupid answer of your Senate, in November last, I should probably have had no occasion to address you this letter; but when we found him borrowing the language of Edmund Burke, and telling the world that although he should succeed in treating with the French, there was no dependence to be placed on their engagements; that their religion or morality was at an end, and they had turned pirates and plunderers; and it would be necessary to be perpetually armed against them, though you were at peace, we wondered that the answer of

MAY, 1809.

Sufferers under the Sedition Law.

H. OF R.

'both Houses had not been an order to send him 'to a mad-house! Instead of this, the Senate 'have echoed his speech with more servility than 'ever George the Third experienced from either 'house of Parliament." No proof appeared on the trial of my printing, or aiding or abetting in printing, or circulating a printed copy of this famous letter. I had read the copy of the letter in company, but the advocates of the sedition law would never admit that such reading was punishable by that law. The printer who printed the letter, swore that he had been anxious to get the letter from me, and that I had refused to suffer it to be printed, and repelled every attempt to persuade me to the printing; that he had obtained the copy of the letter in my absence. The fact was, that my wife was persuaded by a gentleman who is now a member of this House, that the Republican cause and my election (which was pending) would be injured if the letter was not published; and, as I understood, she gave it to him, the letter was printed, and that gentleman had some of the copies before I came home. I suppressed the remainder of the edition. The judge, finding no proof to support this part of the charge, directed the jury to find a verdict of guilty generally, as there could be no doubt of my being guilty on the first count. I had acknowledged my having written the letter to Alden Spooner. They did so. I will not detain the House by going into a detail of the manner in which that jury was packed. After all the care and management in the original selection, there was one man on it whose honesty my persecutors feared; and, to get him off, a wretch falsely swore that the summoned jurymen had expressed to him something like an opinion that I could not be found guilty. I will not here dwell upon the judge's denial to me of a challenge upon the jury—as great a crime as any Judge Chase was charged with. I look for an investigation of this business when all the features of it shall come fairly to public view. Should that investigation be refused at this time, I shall not fail to look for it at some future time. I can never forgive the unjust stigma that has been placed on my character; and should justice be refused me during my whole life, I will leave it with my children and theirs to seek it. When my enemies wounded my feelings, robbed me of my property, and affected temporarily my reputation, I consoled myself that my friends would soon be in power, and they would make everything right. My wounded honor would be consoled; the wound would be healed—a share at least of the property of which I had been deprived, would be reimbursed. How cruelly have I been thus far disappointed! Generous men, at the time I suffered, said it is enough for you to bear the mortification of the temporary insult—we will share with you the loss of property. Under this impression much money was collected, the greater part of which went to relieve oppressed Republican printers—it has all been charged to me. I never asked, nor would I have received a cent of this gratuity, could I have avoided it without insulting the benevolent views of the good man

(Gen. Stevens Thompson Mason, deceased) who set the subscription on foot. That good man gave me a list of those to whom he considered me beholden, and the amount; while the thing was fresh in every one's mind I made a compliment, which he considered ample, and more than ample, to every one of those on that list that was within my reach; to those few that remain on that list uncompensated, I feel beholden and much indebted. As the thing has grown old, and as I have come in contact with those gentlemen, I have felt myself in an embarrassed, awkward situation, from which I wished to be relieved by being able to say to them, the public have restored your money—here it is—it is yours, not mine. Judging other men to have feelings like myself, I am at a loss how to get rid of the obligation I feel, in any other way than the restoration of their money when it comes in a way they cannot refuse it. From this source my anxiety for the restoration of the money unjustly taken from me, arises more than any other; and on every review of the subject, I am bound to say that I have been more cruelly treated by the neglect of a duty to which my friends had pledged themselves, when they declared me innocent and patriotic, than by enemies who thought me guilty, and found me goading them in their progress toward the destruction of the liberty and republicanism of this country. As if to make their cruelty more insupportable, insult is added to the injury, by daily insinuations that I am bound by gratitude to stand by those who call themselves Republicans, in all their projects, right or wrong. Before I was elected a member of Congress from the State of Kentucky, I sent to a member of this House, who had promised me to bring it forward, a petition to be laid before the House of Representatives for redress in this case. He returned the petition to my son in a letter, which I have in my hand—in which he says, "I am sorry and ashamed that I have not presented the petition. I have not wrote to your father, and confess I am ashamed; pray you, the first time you write to Colonel Lyon, do endeavor to make an excuse for me." Such I believe was the impression of most of those I had acted with in the reign of terror, as we called it; but that impression has been wearing off, it seems, while my feelings have been every day increasing in their poignancy at their neglect of a duty, to which they had solemnly pledged themselves, while they were struggling with their adversaries for pre-eminence and power. Happily the awful silence which surrounded this extraordinary business has been broken. I consider this a prelude to investigation and a correct issue; and, let the event of the vote now about to be taken be what it may, I shall not despair.

I shall at this time say no more on this subject than to declare I wish not to have my case singled out for reparation. I wish the investigation general; the provision for remuneration general, to all who suffered under the lash of that unconstitutional sedition law.

Mr. SAWYER's amendment was negatived without a division.

H. OF R.

Sufferers under the Sedition Law.

MAY, 1809.

Mr. Ross rose to propose another amendment to the resolution. It was a fact, he said, well known in almost every part of the United States, that the people in the district from which he had just been returned, had suffered as much in the cause of democracy as that of any other; that they had presented as firm a barrier to Federal oppression, and perhaps had as just claims as any other people in the United States to remuneration for losses in the cause. It was well known that at the time that high-handed measures were taken in this country, an insurrection had taken place in Pennsylvania, commonly known by the name of the Hot-water Insurrection; that it occurred in consequence of the oppression of the law for the collection of a direct tax. Many persons who had opposed the law, under the idea of its being unconstitutional, were prosecuted, punished, and some of them, in consequence of those prosecutions and the sentence resulting from them, expired in prison. To some who remained after the aspect of the affairs of the country was changed, mercy was extended by the United States; but to those whose prosecutions and convictions were of an earlier date, lenity was not extended; they were compelled to pay their fines before they could be relieved from imprisonment. Mr. R. declared his object in rising to be, to move to amend the resolution in such a way as to instruct the committee to inquire whether any, and if any, what compensation and remuneration should be made to the persons who suffered and were punished in consequence of an act to lay and collect a direct tax in the United States.

Mr. DANA said the gentleman's amendment contemplated remunerating those who suffered by their opposition to a statute. He would propose an amendment to inquire into the propriety of remunerating those who had suffered by their submission (not by their opposition) to the several acts respecting the embargo, certainly so much more meritorious conduct than that of opposition. As respected the whole of this subject, he said he was very free to declare that as regarded those who had been prosecuted at common law in the State of Connecticut, who had certainly been at very considerable expense, their defence perhaps having cost them several thousand dollars, yet, on the principle of correct legislation, he had not the least idea of remunerating them. Where shall we stop, said Mr. D., if we tread back on the steps of each other. We shall have opportunity enough for censure in reviewing our own conduct. Perhaps it might be as well to draw the veil of oblivion over past transactions, and learn from experience to err no more.

Mr. JOHNSON said, that however much the act laying a direct tax was disapproved, and arose from measures which were improper, yet he had never deemed it an unconstitutional law, as he had the sedition law. He should therefore vote against the amendment and for the resolution.

Mr. GARDENIER suggested to the gentleman from Pennsylvania, since he had brought the subject before the House, the propriety of going the whole length of his principle. To my mind it is

very clear, said he, that if those who oppose the law are to be remunerated, for what it cost them in consequence of prosecution, you must go only on the principle that the direct tax never ought to have been laid at all. If the law was right, it was improper to oppose it. If it was improper, perhaps according to modern democracy, it might be proper to oppose it by force. That to my mind, is a very dangerous doctrine for legislators to broach; it is a doctrine to which I myself can never agree, for it is making Government a nullity. The suggestion which I wish to make is this: that if those men who suffered in the Hot-water Insurrection are to be remunerated, it is no more than fair that those should be remunerated who have quietly paid this tax. They were at least respectful to the laws. The committee therefore ought to be instructed to inquire into the propriety of repaying to the several contributors in the various States the direct tax, collected from them, unless there be something so admirable, so lovely, so worthy of encouragement in insurrection, that those concerned in it have peculiar claims to encouragement by Government. If that be the case, the gentleman stopped at the proper point. If there was nothing in insurrection, however, which the Legislature would feel it proper to cherish, the gentleman should either go the whole length of his principle or not touch it at all.

Mr. Ross said he had not undertaken to state any principle at all. His object was to refer the subject to a committee to decide upon. He had not said that he considered the original resolution to contain a correct principle; it was a point left for the committee to consider and for the House to determine on. But if it was a correct principle that those who suffered under the sedition law should be remunerated, he said he had no hesitation in saying that his constituents, who had suffered as materially and as much as any for the democratic interest in this country, should be placed on the same ground as those who were asking for the favor of the House for no better reason; and when the gentleman calls upon me, said Mr. R., to go the whole length of a principle which he states, it is calling upon me to do that which is consequent on a principle which I have not assumed. The gentleman from Kentucky conceives that there is a difference between the cases alluded to in my amendment and the cases arising under the sedition law. Where is the difference, sir? In both cases they were laws of the United States: in both cases the judges of the courts of the United States were authorized to proceed. In neither of the cases did they decide the law unconstitutional. If, then, persons were punished by the sedition law in its full operation, carried into effect by the constituted authorities, where, I ask, is the distinction between that and any other law? To all the purposes of legality, that law is as much legal as that under which the direct tax was instituted. Whether the law under which a direct tax was collected, was Constitutional or not, has it not as equally received the disapprobation of the Republicans of the Uni-

MAY, 1809.

Sufferers under the Sedition Law.

H. OF R.

ted States as the sedition law? If then it was the object of the democratic party to rid the country of such a law, as much as of the sedition law, I ask whether those who suffered under each law have not equal claims? There can be no legal claim upon the House under either law; but we know that it was the hardy yeomanry who presented a firm phalanx to the irresistible torrent of injurious laws of the Federal Administration, and who gave the present party the ascendancy, and many of them have not, as the gentleman from Kentucky has been, compensated for their suffering by a long continuance in an honorable and lucrative office which he enjoys by the confidence of his constituents.

Mr. POTTER declared himself at a loss to know whether the House was sitting here as a branch of the Legislature to pass laws, or as a body to remunerate those concerned in the violation of them. The House sit here to make laws and not to encourage those who resisted them; but if they determined to give premiums for the violations of laws, they had better depart home at once.

Mr. RHEA wished the House to get rid of this motion and the amendment as speedily as possible. If the House were to go on as it had commenced the session, the whole time of the House would be spent about nothing, discussing propositions which could not possibly produce good to the nation. He therefore moved to postpone the whole subject indefinitely.

Mr. MACON said he had in been hopes when this motion had been made, that it would be one of the happy days of the House; that the question proposed would occupy the whole day in debate, and that all would agree in it at last. As to comparing this case with that of the direct tax, it was notorious that the discussion on the sedition law and the public opinion also took a very different turn from that which it took on any other law. The whole discussion (said Mr. M.) as well as I recollect, turned upon the constitutionality of the law. Then, if it is still believed that the law was unconstitutional, I leave it to gentlemen to say whether it can be viewed in the same light as a law, the constitutionality of which is not disputed. In the one case, trials took place for speaking and writing; in the other case for opposing the execution of a law. I wish this question to be settled for this reason. In all Governments where liberty and freedom have existed, parties also have had existence. Thinking honestly produces parties. That those gentlemen who were in power when the sedition law was passed, should step a little too far, was not so much to be wondered at as that those who came after them should do so; because they were making the first experiment of the instrument. I then believed, and do still believe, that the law was unconstitutional. Taking up this question, the original resolution of my colleague is, that remuneration should be made to those people who suffered under it; but seeing that the question with respect to the constitutionality of the law had always been matter of dispute, it proposes that a committee shall inquire into the subject. The House is no farther

committed by passing this resolution, than to consent to the inquiry being made. I submit it to the candor and reflection of gentlemen of all parties, whether this thing, in a national point of view, can produce any evil—on the contrary, may it not produce good? All that has been said about the direct tax laws can have no other effect than to draw off the attention of the House from the true question before them. The question on this law, in my mind, is a different one from any other law which has been passed. I feel no hesitation in acknowledging that it is my opinion that all the sufferers ought to be remunerated, both those who suffered under the sedition law, and those who suffered under the common law. It is the business of all parties to settle amicably as they can any subject of contention between persons of different political persuasions. If this first resolution should be referred to a committee, and they report that the law was unconstitutional, I will venture to pronounce that no majority will ever again make a law of that kind. If, sir, the sufferers under the sedition law did suffer contrary to the Constitution, ought not their expenses to be reimbursed? On the subject of contribution, I know that that party to which I was attached, did contribute, and did consider it an honorable cause. I was willing (and there are gentlemen in this House who know it) to open my purse when a man of a very different political creed from myself, Peter Porcupine, was oppressed. I care not of what party a man be that is oppressed. I can prove that the party opposed to me in politics have also subscribed. It is all no more than the subscriptions for printing speeches which are occasionally made in the House, in which gentlemen of all parties unite. Suppose that the whole fine in any particular case had been paid by individual subscription, what has the Government to do with that? Will it be contended, because an old soldier who received a pension also received individual contributions, that the pension should be taken from him, or that the Government is thereby acquitted of what it owed him? Surely not; the Government has nothing to do with transactions between individuals. As to the particular gentleman brought into this discussion, I believe that every man that contributed anything towards paying the fine levied on him, was remunerated to his satisfaction. I have thought proper to state these opinions of mine, and to avow myself in favor of reimbursing the sufferers. But before I sit down, I must say that my opinion of modern democracy is very different from that of the gentleman from New York. I consider it as neither leading to insurrection, rebellion, or any such thing. I believe that the true principle of every modern democrat, is, that the law constitutionally made is supreme, and is to be obeyed; that it has nothing to do with riots, rebellion, and insurrection. I know very well, and shall not deny it, that there are times when insurrection is a holy thing, but it is not peculiarly attributable to democracy. With us, elections put everything to rights; and on them every man of pure democratic principles

H. OF R.

Sufferers under the Sedition Law.

MAY, 1809.

depends. It is doubtful whether the question of the constitutionality of the sedition law can be settled in a more easy way, and in a mode less liable to irritation, than that proposed by my colleague. If the committee report as I wish, it is well; if not, it settles the question for ever; and it is surely desirable that the question should be settled. However gentlemen may differ as to the principle proposed to be investigated, they might with propriety vote for the inquiry, as it is the ordinary course of every day. I do not consider this as proposing to give a premium to violators of the laws. I know that much depends in this world on names; and that if you give any man or thing a bad name, whether merited or not, it is difficult to get rid of it. I hope the House will not be deterred from this inquiry by any name attempted to be given to it. It is proper that this question should be settled; and if considered now, it will be settled by a body which did not partake of the heats of those times, and when, to say the least of it, there is a little division in the great parties of the nation; and it seems to me that the gentleman who moved it has been fortunate in the selection of his time. Eight years have elapsed, a new President is just inducted, and the question is now brought up for our decision. I am sorry that any member of this House should make a motion with no other view but for procrastination. I do not believe that my colleague who made this motion is more in the habit of procrastinating the public business than other members of the House; and I was in hopes that there would have been no dissentient voice to his motion. He only asks of you to let the inquiry be made. He does not ask a single member of the House to commit himself upon the question, but merely asks that a committee may be permitted to inquire into it; and this, it seems to me is no extraordinary request. I hope that the resolution, without being trammelled with any extraneous matter, will be passed.

Some further observations were made by Messrs. GOLD, PICKMAN, PORTER, and RHEA, against the resolution; and by Mr. STANFORD in favor of it.

Mr. KEY said he should vote for indefinite postponement of the resolution. What good purpose could its adoption answer, unless the House had the power to take money from the Treasury of the United States for the purpose of remunerating any person who had suffered? Had Congress that power? He apprehended not. He could see no such power amongst those delegated to Congress. The gentleman from North Carolina admitted the House were under no obligation to remunerate the sufferers; and if the gentleman would turn to the rules laid down for the definition of the powers of Congress, he would see that there was no authority to draw money from the Treasury for this purpose. Under that view of the Constitution, Mr. K. said he must vote for indefinite postponement.

Mr. MACON asked under what clause of the Constitution Captain Murray and others had been remunerated? Under what clause money paid into the Treasury had been returned in various

instances? The right to take, gave the right to return that which was taken. In many instances this principle had been practised on. There was no law to authorize the punishment of a man for robbing the mail; but it was derived from the power of establishing post roads. The power of refunding money was one which had been often exercised.

Mr. GARDENIER was in favor of an inquiry. It was not only proper that an inquiry should be made, but it was the bounden duty of the House to make it. A member of the House in his place had stated facts which if true undoubtedly entitled him to their interference. Our duty (said Mr. G.) is imperative. The case of the gentleman does not rest upon the question whether the sedition law was Constitutional or unconstitutional, but upon the fact that he was not a proper object for the exercise of that law. For, if the statement made be correct, he was punished for uttering a creed which would not be improper for every member of the House; and I will say that subsequent events have shown the sincerity with which the gentleman did make it; that he has kept his promise most religiously; that it was not applicable to those men, or that time, any more than to the present, but was a creed on which he practised before and ever since, so far as his political course is known to me. It is a case in which the privileges of the members of this House are materially concerned. If under the sedition law for a letter written by a member of this House to his constituents, giving his view of public measures, he has been punished, it concerns the safety of this House that complete and perfect remuneration should be made. It is as important that every member should be permitted to speak freely to his constituents, as that he should without restraint address the Chair of the House. It was a case, therefore, which never ought to have been the subject of a judicial investigation, much less considered as a crime. The gentleman at the time followed the dictates of his conscience. To his conscience and his God alone should he be responsible. Sir, should we refuse an inquiry into this case, when we know that the fine of James Thompson Callender, for one of the most atrocious libels ever written in the United States, was remitted? When we know that it was remitted by the President of the United States, after the money had been received by the proper receiving officer of the United States, when it had passed out of the hands of James Thompson Callender into the hands of the officer of Government, and was, to all intents and purposes, in the Treasury of the United States, because there is no such thing as a treasury in which money is actually deposited—for a libel, too, in which the great Father of his Country was treated with a shameless indignity, which could not but have gone to the heart of every man? When the President of the United States was in that libel called a hoary-headed incendiary, should that fine be returned, and shall a gentleman in this House be fined and imprisoned for that which was not even improper? Shall we not restore to

MAY, 1809.

Vote of Approbation.

H. OF R.

him that which others have been suffered to retain, and for which we have not brought to question him who restored it after it was in possession of the receiving officer of the United States—in fact, after it was in the Treasury? Let us not be guilty of this inconsistency. If the sedition law has gone to the tomb of the Capulets, and I believe it has, I am not one who wishes to bear up against the people's voice; the Government is theirs, and when they speak we obey. If under that law the Government has received money for an act which really, if the statement of the gentleman be true, could scarcely be considered an offence within the purview of that law, will you not give it back to him? Either give back the money in the case, or take measures to recover that money which was given back in the other. I am not for making fish of one and flesh of another. Whilst on this subject I will declare that I never did consider the sedition law as unconstitutional. Congress were competent to pass it. But, that parties will sometimes in the ardor of their course exceed the limits of discretion, and do violence to the milder feelings of the community in which they live, has been proved in the Adams Administration, and in that which has lately disappeared; and when they have cooled down, it is but rendering justice to the sense of the country to acknowledge their errors. No, sir, I am satisfied that all prosecutions for libels on the Government should be at least very hesitatingly sustained. You cannot draw a precise line by which you shall limit the right of investigation. The two things are so blended together that you cannot separate them. You must either make the Government supreme or the people supreme. I am for the latter. As Dr. Johnson makes Lord Chesterfield say, liberty and licentiousness are blended like the colors in the rainbow; it is impossible to tell where one ends and the other begins. Licentiousness is a speck on the eye of the political body, which you can never touch without injuring the eye itself. I hope and trust that with this investigation will be connected an inquiry into the prosecutions at common law in Connecticut. I have seen in the State of New York, but not under the present Administration, a defendant coming into court, begging only to be permitted to prove that what he had said was true; I have seen also an Attorney General rise to prevent it: I have seen the truth smothered on the trial by men who were as clamorous against the sedition law as any loud-mouthed patriot in the country. I have seen them bringing almost to the block the victim who may only wish to prove the truth of what he said—which was denied him. I mention this to show that where parties are contending against each other, where there is a majority on one hand and a minority on the other, that which appears on paper proper for the protection of the Government, turns out to be for the oppression of the minority. In the nature of parties it cannot be otherwise. Therefore, in my opinion, the Government of the United States cannot render a greater service than by declaring it will not be necessary to any diminution of the

rights of the citizen; that free investigation shall in all cases be permitted. Mr. G. made some further observations on the particular case of Mr. LYON, and concluded by expressing his hope that the resolution would pass.

The question that the resolution be postponed indefinitely, was decided by yeas and nays—yeas 69, nays 50, as follows:

YEAS—Willis Alston, jr., William Anderson, David Bard, Burwell Bassett, William W. Bibb, Daniel Blaisdell, Adam Boyd, James Breckenridge, John Brown, William Butler, John Campbell, Epaphroditus Champion, William Crawford, John Davenport, jr., John Dawson, James Emott, William Findley, Jonathan Fisk, Meshack Franklin, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, Jonathan H. Hubbard, Jacob Hufty, Robert Jenkins, Walter Jones, Thomas Kenan, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, Aaron Lyle, Vincent Matthews, Alexander McKim, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, Roger Nelson, Thomas Newbold, John Nicholson, Joseph Pearson, Benjamin Pickman, jr., Peter B. Porter, Josiah Quincy, John Rhea of Tennessee, Matthias Richards, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, Daniel Sheffey, Dennis Smelt, George Smith, Henry Southard, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Uri Tracy, George M. Troup, Laban Wheaton, Robert Weakley, and Robert Witherspoon.

NAYS—Ezekiel Bacon, William Baylies, Robert Brown, William A. Burwell, John C. Chamberlain, William Chamberlin, Martin Chittenden, Howell Cobb, James Cochran, James Cox, Henry Crist, Samuel W. Dana, Joseph Desha, Barzillai Gannett, Barent Gardener, Thomas Gholson, jr., Peterson Goodwyn, Edwin Gray, James Holland, Benjamin Howard, John G. Jackson, Richard Jackson, jr., Richard M. Johnson, William Kennedy, Edward St. Loe Livermore, Nathaniel Macon, Robert Marion, Archibald McBride, Samuel McKee, Jeremiah Morrow, Jonathan O. Mosely, Thomas Newton, Timothy Pitkin, jr., John Porter, Elisha R. Potter, John Randolph, John Rea of Pennsylvania, John Roane, John Ross, Samuel Shaw, John Smith, Samuel Smith, Richard Stanford, William Stedman, John Taylor, John Thompson, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, and James Wilson.

MONDAY, May 29.

Several other members, to wit: from Massachusetts, ORCHARD COOK; and from Pennsylvania, BENJAMIN SAY and JOHN SMILIE; appeared, produced their credentials, were qualified, and took their seats.

VOTE OF APPROBATION.

Mr. RANDOLPH called for the consideration of his resolution on the subject of the conduct of the President in the late accommodation with Great Britain.

The SPEAKER decided that the motion was not in order, inasmuch as it was a settled practice of the House to devote the first hour of each day's session to the receiving petitions, reports, &c. Mr. RANDOLPH appealed from his decision, and

after a conversation on the point of order, which occupied nearly two hours, in which Messrs. RANDOLPH, SMILIE, W. ALSTON, DANA, BACON, J. G. JACKSON, BOYD, GHOLSON, QUINCY, POTTER, (R. I.) PITKIN, GARDENIER, and KEY, took a part, the Speaker's decision was affirmed by yeas and nays—77 to 48, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Howell Cobb, James Cochran, James Cox, William Crawford, Henry Crist, Richard Cutts, Samuel W. Dana, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jun., Peterson Goodwyn, Thomas R. Gold, William Hale, William Helms, James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, Matthew Lyon, Aaron Lyle, Robert Marion, Samuel McKee, Alexander McKim, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rhea of Tennessee, Matthias Richards, John Roane, John Ross, Ebenezer Sage, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, George Smith, Henry Southard, Samuel Taggart, John Taylor, John Thompson, Uri Tracy, George M. Troup, Robert Whitehill, James Wilson, and Robert Witherspoon.

NAYS—William Baylies, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Martin Chittenden, John Davenport, jun., William Ely, James Emott, Barent Gardenier, Charles Goldsborough, Edwin Gray, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Robert Jenkins, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jun., Edward St. Lee Livermore, Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBride, Pleasant M. Miller, William Milnor, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, John Randolph, Thomas Sammons, Daniel Sheffield, John Smith, Samuel Smith, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Benjamin Tallmadge, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton.

The hour having more than passed,

Mr. RANDOLPH again called for the consideration of his resolution, and the House agreed to take it up by yeas and nays, 66 to 62.

The motion pending at the time of adjournment on Friday last, was for an indefinite postponement of the subject.

Mr. DANA protested against the indefinite postponement. Whatever he might think of the propriety of adopting the motion of the gentleman from Virginia, he was certainly against postponing it indefinitely. What would be the effect of such a course? That the subject could not be acted upon during the present session.

Why should a subject be postponed from one session to another? If it were premature to act upon it this session, it might be proper to dispose of it in this manner; but such reasoning could

not apply to the motion in question. If it could be ever proper to adopt a measure of this kind, it must be peculiarly proper that it should be done at the present session of Congress.

There can be, said he, but one further reason why it should be postponed indefinitely; and that is, that we are against the proposition itself, and postponing it is a more delicate mode of rejection, than a vote meeting it directly. I do not wish to avoid the question. If my opinion be against the President of the United States, I have certainly nothing to fear from him so as to prevent me from expressing that opinion; if it be in favor of him, I have certainly nothing to hope for from him, so as to tempt me to express it improperly. In my place here, sir, I cannot, for one moment, admit that the President, or any member of the Cabinet, would suppose that I should be induced by any fear or hope to vary in the least from the course which I deem proper in the performance of the trust with which I am honored by the freemen who sent me here. Whether the present President be the person whom, in preference to all others, I would have wished to see placed in the Presidential chair, it is not for me to express at this time. It is enough, that he is placed at the head of the nation according to the Constitution; and, in my place as a public man, it becomes me to observe that decorum towards him which is due from the Legislature to the Executive Magistrate.

On the general question, respecting the propriety or expediency of passing the tribute of approbation to our officers on any occasion, I have listened with much attention to the objections; and it is very true, in my opinion, that, in the ordinary course of public affairs, it would be unworthy of the Legislature to express approbation of the conduct of the Executive, especially in every instance in which he may be supposed to have acted correctly. If he has performed merely an ordinary duty, at an ordinary time, it is needless to say anything about it; and yet I do not say that I would always refuse approbation when he has done his duty. Neither do I admit, if it be proper to express approbation at any time, that the converse is true, that we may express censure. As respects the conduct of gentlemen holding commissions in the Army or Navy, who have done their duty in a manner useful to their country and creditable to themselves, or affording good examples to others, the Legislature may express its approbation, when every gentleman composing it may reprobate an adulatory address.

The real question, therefore, as to the propriety or impropriety of adopting the resolution is, whether there be anything, either in the nature of the time or in the character of the transaction, which renders it proper for the Legislature to express an opinion on the subject? If it were but an ordinary time, and if the Chief Magistrate has only performed an ordinary Executive duty with ordinary propriety, it must be admitted that there is nothing in this case worthy of being distinguished by the Legislative approbation. Is there, then, anything observable in the nature of the

MAY, 1809.

Vote of Approbation.

H. OF R.

time? What was the state of things prior to this act of the Executive, both in relation to domestic and foreign concerns? What was it in relation to the constituted authorities of the country? Were not questions agitated of the most serious import? Were we not presenting to the world the afflictive spectacle of a nation rent by internal discord? Did it not seem as if the potent spell of some mighty enchanter had arrested our faculties of action? What has been the result of the recent arrangements? The reproaches of party, and the stigmatizing imputations of attachment to one or another foreign Power, have been hushed; industry is revived; mutual gratulations have succeeded to the voice of reproach. The joy of hope succeeds to apprehension and anxiety throughout the nation. And all this is witnessed soon after the accession of a new Chief Magistrate to the head of affairs. Can there be named any one act of any Chief Magistrate of the United States, which has made a greater change than this?

The character of the transaction is not that of an ordinary performance of an ordinary Executive trust. What, sir, are the powers which the President has undertaken to execute? One is, the power in relation to the restoration of intercourse between this country and the British dominions. By statute, this intercourse was interdicted. The President was authorized by the same statute to declare the renewal of intercourse on certain conditions: he was thus authorized to suspend the operation of an act of Congress. Has he, then, exercised this dispensing power according to the conditions limited in the act? This being the nature of the transaction, there seems to be a propriety in the Legislature's expressing an opinion, because, in the execution of his duty, his act was to have a legislative effect.

By the section of the non-intercourse act under which the President issued his late proclamation, "in case either France or Great Britain shall so revoke or modify their edicts as that they shall cease to violate the lawful commerce of the United States," the President of the United States is authorized "to declare the same by proclamation; after which the trade of the United States may be renewed with the nation so doing." On this phraseology arises the question: Was the President authorized to proclaim the existence of a fact after its taking place, or was he to predict that a fact could exist? Was he to declare an actual revocation of the Orders in Council, or to predict that they would be revoked? Look at the section, sir! Authority was given to the President of the United States to declare the fact by proclamation, in case Britain or France should revoke or modify their edicts so as not to violate the neutral commerce of the United States. Must not the fact have existed before he could legally declare it? Yet, at the time when the President issued his proclamation, Great Britain had not revoked or modified her edicts at all. The question therefore is, whether this section authorized him to proclaim the renewal of the trade, as he has done? I am not

saying that he has not conformed to the spirit of the act. I am not disposed to pronounce a censure on his conduct. But the question is, sir, whether his procedure be strictly legal? If it be not, and we approbate his conduct, it might, perhaps, be proper to pass some act giving validity to what he has done; in the same manner, as when the Secretary of the Navy, under the direction of the late President, expended several hundred thousand dollars for naval supplies, for which no appropriation had been made, we passed a law giving validity to the transaction. An assurance was given by the British Minister Plenipotentiary, that the Orders in Council will have been withdrawn, as respects the United States, on the tenth day of June next. Was the President of the United States authorized to accept the assurance instead of the fact? I admit that it was scarcely to be expected that an actual revocation should be made a long time prior to a renewal of intercourse, and I should suppose that the phraseology of this section must have occasioned difficulty in negotiation. How the fact was, I do not pretend to have any information. I am perfectly willing to give the officers concerned full credit for attempting to avoid the difficulty arising from the terms of the law; and if the proceeding was not strictly legal, I am willing to give the President of the United States full credit for the disposition which he has manifested; and if the state of things had been anticipated by Congress, I presume they would have been willing to adopt provisions proper for giving validity to the transaction. When I reflect on the great variety of constructions given to this non-intercourse act, I admit it to be so confused and obscure, that even the first officer of the Treasury Department has given opinions on some of its sections completely contradictory, and some of the constructions given to the act have made the Congress guilty of extravagant absurdity; to remedy part of which we have already passed one act this session; such, for instance, as the construction which permitted foreign vessels to return home with cargoes; but if they were bound elsewhere, compelled them to give bond and security not to go home. If the President has done a substantial benefit to the country in the spirit of the law, although in correctness of legal construction the act of Congress did not give him the power, I would approbate the spirit in which he has acted.

So much, sir, as respects one part of the subject to which the resolution of the gentleman from Virginia refers. On examination of the resolution, I find it expressed with a precision which completely applies to the two great acts of the President of the United States; one of which is the opening of intercourse with Great Britain, and the other is the adjusting of the controversy as to the frigate Chesapeake. With respect to the latter case, I should have considered that, while remaining unsatisfied and unatoned, as an insuperable obstacle to the adjustment of other matters in question between the two countries. It was an obstacle presenting itself at the threshold of every negotiation; and we could not, with

propriety, negotiate on other matters while that remained unadjusted. It was, perhaps, one of the first questions of the kind that ever occurred under the Constitution of the United States. It respected an attack on the honor of the national flag, which, if unexpiated, would be considered in the national estimation as sufficient cause for public war, an attack which would authorize active measures of hostility as much as an attack on a garrison within our frontiers; an attack, which, in its nature, is to be completely distinguished from the searching of private merchant vessels, on board of which no public authority was exercised by the Government, and for which the Government is not responsible.

In what branch of the Government, sir, is vested the full power of accepting national satisfaction for an injury to our national flag? In what branch is vested the authority of accepting reparation for an insult which might be complete justification of war on our part? We know full well that, in Governments where the Chief Magistrate wears the diadem or the crown, his dignity and the honor of his flag are supposed to be affected by an insult or outrage from a foreign Power. But here the question concerns the dignity of the United States and the honor of the national flag. To whom has the Constitution given the power of deciding the question of war and of peace, on the part of the United States? Certainly the power of making war does not constitutionally appertain to the President; neither can he make a valid treaty of peace, except by concurrence of the Senate. Yet we know that negotiations must be conducted by means of the Executive as the organ of communication with foreign Powers. As the President has not the authority to make war and peace exclusively, has he the exclusive power to accept satisfaction for an outrage which, if unatoned, might be valid cause of war? The general question therefore is, whether it would or would not be proper, when the President has undertaken to accept such satisfaction, to confirm his acceptance by the legislative sanction? Is this an ordinary case, to be considered as an affair of course? We have to reflect whether it should be declared, in consequence of the public reparation, that the attack on the Chesapeake frigate shall no longer be noticed as a question in any difference between the United States and Great Britain, but that it shall never hereafter be brought into account. By approbating the acceptance of satisfaction, the transaction is finished on the part of Congress. If it be not approbated, the President himself is pledged in good faith not to give his consent to any act making war or authorizing hostility on account of their outrage. But if the Congress approbate the accommodation, it becomes unquestionably complete.

So much, sir, as respects the question relative to the acceptance of satisfaction for an insult to the national flag of the United States. There remains a more particular view of the subject, with respect to the terms of satisfaction which have been accepted by the President now in office.

If they were precisely the whole terms which had been formerly demanded, there might be less reason for expressing our opinion as it respects the particular terms of satisfaction. But it will be recollected that, formerly, the Minister of the United States at the Court of London had demanded reparation for the attack on the Chesapeake, when first heard of; and that he thought it improper to mingle other subjects with this more serious cause of complaint. His instructions, subsequently received, directed him to introduce with this subject that of impressment from merchant vessels; and, in obedience to his instructions, he made additions to his demands. The points on which he was instructed to insist, were a formal disavowal of the attack, the restoration of the men taken from the frigate Chesapeake, an entire abolition of impressment from vessels under the flag of the United States, and the solemnity of a legation extraordinary for completing the reparation.

To require the suppression of impressments as the condition of being admitted to make honorable reparation for an acknowledged injury, was a demand which, in the language of the British Government, could be answered no otherwise than by an unqualified refusal. A Minister Extraordinary was afterwards sent to this country; and then the suppression of impressments was not specifically insisted on as an indispensable condition of any adjustment. But it was proposed, on the part of the late Administration of the United States, that the British Minister Extraordinary should disclose the terms of reparation on which he was authorized to agree; and if they should appear to be satisfactory, then the President would consider them as a pledge for preventing other alleged abuses, and that the interdictory proclamation against the British navy might then be revoked by an act of the same date with the act of reparation. We now find that terms of reparation are accepted, without any stipulation as to the suppression of impressments, and without considering these terms as a pledge for giving satisfaction on any other point.

The terms accepted being thus variant from the terms formerly insisted on, is there not peculiar reason for expressing our opinion upon the change which has taken place? For myself, although the difference has not been accommodated in a style so highly honorable as I could have wished, I much doubt whether reasonable men, under the circumstances ultimately attending the case, would insist on terms more advantageous than those which the President in office has accepted; for doubtless there was difficulty in settling them. The main points desirable were, that the inadmissible pretension, which gave rise to the attack on the Chesapeake, should be solemnly disclaimed forever; and that the adjustment should be so finished as that neither nation should experience any sentiment of peculiar mortification or debasement in consequence of the settlement. I incline to the opinion, sir, that when the subject came to be examined, it was so circumstanced that no reasonable man could have ex-

MAY, 1809.

Vote of Approbation.

H. OF R.

pected it to be settled on better terms than it had been, for the United States. I therefore am ready to declare my approbation of the conduct of the President of the United States in relation to the promptitude and frankness with which he has met the overtures of the British Government.

Mr. RANDOLPH said it was no part of his intention now to enter into anything like a consideration of the great points supposed to be in dispute between those who approved the conduct of the President of the United States in issuing his proclamation, and giving the construction which he had given to the non-intercourse act. And, indeed, if, on the last vote which had been taken, (for considering his motion,) he could with any sense of decorum or propriety have voted against himself, if he could have voted in the negative on his own motion, he should have taken a pleasure in so doing. For he, as much as any member of this House, wished to hear the communications lying on the table, but he was also anxious to see a question of right with respect to himself decided; and to his perfect satisfaction, the House had supported the decision of the Chair, and yet the course which the business would take was precisely the same as if the House had admitted his motion in the first instance to be in order, except that some three-quarters of an hour or more had been occupied in discussing the point of order. I wish (said Mr. R.) to make some answer to the objections of a very venerable gentleman from Pennsylvania, (Mr. FINDLEY,) on the motion which it was proposed to postpone. I think the principal objection of that gentleman was, that it was improper at any time to discuss or entertain such propositions—that motions in approbation or disapprobation of the conduct of the Executive of the United States ought not to be agitated here; that they are wrong in principle; and that how much soever he might be disposed to applaud the conduct of the President in this or in that particular, he would not countenance a motion approving that conduct. What weight it will have with the other members of this House (said Mr. R.) I know not, but there is a precedent on file which ought not to be destitute of weight with that gentleman, from the first session of the third Congress, which met at Philadelphia in November, 1793, soon after the late General WASHINGTON had issued his celebrated proclamation of neutrality; and I beg the House to carry along with them in their minds the similitude of the two occasions, and the dissimilitude too, and to keep in recollection that wherever there is a difference between the two cases, the advantage is on the side of the motion which I have had the honor to lay before you. For example: in the year 1793, previous to the first session of the third Congress, the late General WASHINGTON, conceiving himself to be required by his duty as President of the United States to issue a certain proclamation—and recollect that the present motion is relative to a proclamation, and hinges entirely on it—which proclamation General WASHINGTON was not required to issue by any law of the land; I find that at that

time the gentleman from Pennsylvania, and another gentleman from Pennsylvania, an ancient colleague of his, (Mr. SMILIE,) and several other members of the present Congress, were then members of the House of Representatives; and it appears on the Journal, that on that day the Committee of Elections did report that the credentials of these gentlemen entitled them to their seats. I am consequently to suppose their presence, except I were to suppose (what I have no right or disposition to do) that there was some dereliction of duty on their part, and that they were absent from their seats. The yeas and nays, indeed, were not taken; but on Friday the 26th, the House resolved unanimously to address the President of the United States in the words following—I do not mean to fatigue the House or myself with reading the whole of it, but will read extracts:

“The United States having taken no part in the war which had embraced in Europe the Powers with whom they have the most extensive relations, the maintenance of peace was justly to be regarded as one of the most important duties of the magistrate charged with the faithful execution of the laws. We accordingly witnessed with approbation and pleasure the vigilance with which you have guarded against an interruption of that blessing by your proclamation, admonishing our citizens of the consequences of illicit or hostile acts towards the belligerent parties, and promoting by a declaration of the existing legal state of things an easier admission of our right to the immunities belonging to our situation.”

Now here, sir, is a vote of approbation proposed on the subject of a proclamation which the President of the United States was called upon by no law of the land to issue, and on the execution of which duty, in a manner comporting with their sense of that duty, depended the approbation or disapprobation of this House; and surely, sir, if it was competent for the House of Representatives in the year 1793, to the gentleman from Pennsylvania, and other gentlemen, now members of this House, to approbate the conduct of President WASHINGTON in issuing that proclamation, which he was not required to do by any specific statute, it is surely at least as proper now to approve the conduct of President Madison in a case in which it was his special duty to do it. Where there is a variance between the two cases, it is in favor of the motion which I have the honor to submit. But perhaps I shall be told by some of those youthful spirits who have lately made their appearance in this House, that this is a precedent taken from *federal* times, and therefore ought not to be relied on by good Democrats. But, sir, it unfortunately happens for those gentlemen who would thus evade the force of it, that in the very zenith of democracy, a precedent perfectly analogous, or even stronger than the one now contended for, was entered upon our Journal. At the second session of the seventh Congress, (the first which convened after the election of Mr. Jefferson to the Chief Magistracy,) the House of Representatives were moved to come to the following resolution in relation to the obstruction of

H. OF R.

Vote of Approbation.

MAY, 1809.

the navigation of the river Mississippi, and of the right of deposit at New Orleans by the Spanish government of Louisiana :

“Resolved, That this House receive with great sensibility the information of a disposition in certain officers of the Spanish government at New Orleans to obstruct the navigation of the river Mississippi, as secured to the United States by the most solemn stipulations :

“That, adhering to that humane and wise policy which ought ever to characterize a free people, and by which the United States have always professed to be governed ; willing at the same time to ascribe this breach of compact to the unauthorized misconduct of certain individuals, rather than to a want of good faith on the part of His Catholic Majesty, *and relying with perfect confidence on the vigilance and wisdom of the Executive, they will wait the issue of such measures as that department of the Government shall have pursued for asserting the rights and vindicating the injuries of the United States ; holding it to be their duty at the same time to express their unalterable determination to maintain the boundaries and the rights of navigation and commerce through the river Mississippi, as established by existing treaties.*”

On that occasion it did unfortunately happen that there were gentlemen in this House who had no disposition to express any such confidence in the President of the United States, as I am afraid, and do verily and in my conscience believe, there are now gentlemen who have no disposition to express approbation (because they feel none) of the late conduct of the President of the United States. These gentlemen then moved to strike out these words, (the words in *italic* in the above resolution,) which passed in the negative—yeas 30, nays 53. Mr. R. here read the names of those who had voted for or against. Now, he said, he was not at all surprised that the gentleman from Connecticut, (Mr. DANA,) and others, who did not feel that confidence in the late President, therefore voted against expressing it ; and now, also, he presumed, the gentleman would vote, as others would, according to the sentiment he felt. But, said Mr. R., we, who did feel confidence, and had none of that punctilious repugnance at expressing what we felt, and could not see anything in principle against expressing it, (not having at that time the benefit of the light shed on this subject by the venerable and reverend gentleman from Pennsylvania,) voted in the negative. So much upon the question, whether there ever existed a case in which this House undertook to approve the conduct of the Executive of the United States in a delicate and critical juncture, particularly of our foreign affairs ; the evidence which I have produced is conclusive ; and the fact is, that if we get rid of this motion after the precedents which have been cited—I do not say that they are binding ; I do not feel them so ; if I thought it wrong I should vote against it without reference to former precedent—but if we do become all of a sudden, and, in this particular point, so very squeamish, the fact is, that the President of the United States, if endowed with half the penetration which I presume he does possess, must take the hint ; he must feel that there

exists in this body a disapprobation of his conduct, although there be no disposition to express that disapprobation. For, sir, we should not have to go far back to seek for precedent to find a case where, in point of practice, a decision is condemned, and in point of vote upheld.

We have gotten all of a sudden, sir, into a sort of *phobia* of abstract proposition ; we hear a great deal of passing votes, out of which nothing is to grow. I would ask the worthy gentleman from Pennsylvania—I would not put that question to any other member but the worthy gentleman from Pennsylvania, because I understand his ground to be, that there does not exist the right, if there exists the power, in this House to enter into a series of propositions which lead to no law. Now, sir, at the last session, when a member got up and moved that the thanks of the House be given to the Speaker for the faithful and able discharge and so forth of his duties, that was not intended to originate a bill ; nothing was to grow out of it, except a very unpleasant situation to the House and the gentleman in the Chair. Would the gentleman from Pennsylvania then have contended that such a motion was inadmissible, and therefore ought to be indefinitely postponed ? If I am not much misinformed, there was a motion indefinitely to postpone that proposition, which was negative. Then it seems, sir, that we have an unlimited power of complimenting ourselves ; that we may be guilty of self-flattery to any extent—for what is the Speaker of this House, in fact, but ourself ? He is the creature of the House ; they make him. When they compliment the Speaker, they compliment their own sagacity in selecting a person so competent to the discharge of his duty. For what does the Speaker say when conducted to the Chair ? That he will discharge the duties of his office agreeably to the wishes of the House ; for which, I presume, he receives the vote of thanks. Now, in this case, the President of the United States has discharged the duties of his office, if not agreeably to the wishes of the House, certainly agreeably to mine ; and, therefore, I would express my approbation—why ? That it may stand on the Journals as an expression of my opinion ; although, let me tell you, Mr. Speaker, that some twenty or thirty years hence, when the little bickerings of this day are past and forgotten, that vote will be of value. It will tell ; it will weigh heavily in the estimate of the character of the person in respect to whom it is passed ; for when we go back to the Journals, and look at the Administration of General WASHINGTON, twenty years ago, do we think of the little party disputes of that time ? We scarcely give ourselves trouble to consider how men were moved to their actions. It is of consequence to posterity too. What will the historian do in relation to the transactions of this Administration ? He will find that the first act was to restore harmony and intercourse between the United States and a foreign nation. Is he to be met at the threshold ; is this conduct to be qualified by a vote upon your Journals, from which he will inevitably draw

MAY, 1809.

Vote of Approbation.

H. OF R.

this inference, that although there did not exist a disposition openly to condemn the Ministry, there existed a majority of a different way of thinking; and who therefore got rid of this question as dexterously as they could? No, sir; this vote (I hope I shall be pardoned for saying so) differs in its advantage from the vote for returning thanks to the Speaker of this House at the end of the last session of Congress. It is a vote out of which some practical good is to grow—a vote by which the President of the United States is to be strengthened in the course which he is now pursuing, and encouraged and invigorated in persisting in that course hereafter. It is not a mere motion in course, like a motion for a vote of thanks to the Speaker of the House of Representatives, which is, at last considered as a matter of form, and has ceased to be a source of anything but unpleasant sensation to the House; for I believe that from the time of the first Speaker, a member from Pennsylvania, (Mr. MUHLENBURG,) who was succeeded by a member from Connecticut, (Mr. TRUMBULL,) and afterwards by a gentleman from New Jersey, (Mr. DAYTON,) subsequently by a colleague of yours, Mr. Speaker, (Mr. SEDGWICK,) and finally until the last Congress, by my worthy friend from North Carolina, in every case this motion of thanks to the Speaker, which, if my motion be abstract, is equally abstract, has been made and carried; although I believe that the first time the motion was made after I obtained a seat in Congress, it was merely accidental that it was carried at all, although no practical result upon gentlemen's own principles could ensue, and it ought therefore (as they say) to have been quashed. I, on the contrary, contend that practical good can ensue from my motion, and I think that my friend from North Carolina, whom I do not see in his place, (and I am glad that he is not in his place,) must have felt his toils in the Chair, and even a broken constitution, to have been amply compensated by three distinct and unanimous votes of three several Houses of Congress, returning thanks to him for his able and impartial conduct in the Chair.

Although, sir, it be no part of my intention, as I said when I rose, to enter into the merits of the main question, I think it necessary to say a few words in explanation of what fell from me a few days ago, when unprepared to discuss this subject, when, perhaps, I was misunderstood, and, very probably, because I may not have expressed myself as accurately as I could have wished. It has been stated that this offer on the part of the British Government and acceptance on the part of ours—this truce, or call it what you will, patched up between the two countries, is more disadvantageous to Great Britain than the late offer to suspend the embargo as to Great Britain, and keep it on as to France, would have been if accepted. This is one of the cases in which my argument is fairly met—as far at least as it can be met by mere assertion; and, after the decision of this motion for indefinite postponement (which I perceive will be lost) on the discussion of the main question, all I ask of gentlemen is to state

the argument as it really was offered, and if they refute it they shall have my best thanks; I shall listen to them with a mind perfectly open to conviction. But if gentlemen state something else, they cannot suppose that I will interrupt them in the course of their career of success against arguments not of my creation but of their own. I shall, therefore, in the course of my discussion, take no kind of notice of any statement of my argument that can be made unless it be a perfectly fair statement, and the true matter be met, any further than finally to recapitulate by way of reply what I conceive to be the true points in dispute. Here is one point: that as far as we have gone in the present adjustment, it is more disadvantageous to Great Britain than the proposal for suspending the embargo. That is a fact on which every man in the House is competent to decide, and one on which I deem the arguments offered by me to you to be so irresistibly conclusive that I will not notice anything in the way of assertion on this point farther than to suggest that this has been thrown out in the spirit of the proverb, that *good wine needs no bush*. Nothing is more common, in the State which I represent, than for a horse-dealer, having two horses to dispose of, to give praise to the most indifferent, in proportion precisely as it is inferior to the other, because it is supposed that the good horse will always sell himself, and it is necessary to recommend the other by all the address of which that sort of people are never destitute. Now, in the present case of the late adjustment, of which nobody complains, it is supposed to be one which meets so general an approbation that it is not worth while to say much in its commendation. Now, sir, as this old horse is to be linked in the same team, if the jockey can once establish that he is a better nag than the grey mare, than that which is generally acknowledged to be good, his point is gained. That is the question in dispute; and until I hear the argument which I submitted to you last week answered, I shall say not one word upon it. To be sure, sir, if we allow that the proposition to suspend the embargo as to Great Britain was more advantageous for her than the late one, we must admit that it is more advantageous to Great Britain to have her ships excluded from our waters than admitted into them; that it is more advantageous to have the old non-importation act in force than to have it repealed; that it is more advantageous for her to have a difficult and hampered trade, and her ships of war excluded, whilst those of France were admitted in perfect freedom, than to have her trade with us put on the footing on which it stood prior to the old non-importation act, and our trade to France cut off and French ships excluded. If gentlemen believe this it is very well; I admire their faith. There is a point of fact on which it unfortunately happens that there has been and does exist in this House too much difference of opinion. It is a fact which can be established conclusively by your Journals; and the reading of the documents received from the Executive when he recommended the embargo will con-

H. OF R.

Vote of Approbation.

MAY, 1809.

vince gentlemen of it. Gentlemen say that the fact of the existence of the Orders in Council was known here, when they are compelled to confess the President intimated nothing of it in his Message. Produce the National Intelligencer; produce the passage so often alluded to in relation to these orders; and what conclusion is to be drawn from it? Why, sir, that some speculation might have been hazarded on the subject, something in the way of conjecture. Do gentlemen believe that the late President of the United States had a peculiar diffidence in the National Intelligencer? Had he any peculiar diffidence in that paper, of all the papers in the world, that, when he sent the proclamation, cut out of a British newspaper, he would not have sent us a file of the National Intelligencer, or that article from it which they say went to establish the existence of the Orders in Council? Had he any cause for peculiar diffidence in the National Intelligencer, that he would not send us an extract from that paper while he sent us extracts from others—even British papers? Or, are gentlemen prepared to say that the conductors of that gazette have more certain information on the subject of our foreign concerns than is possessed by the President of the United States himself? I hope not, sir. The fact of the Orders in Council being known in this country by our Government, they might have been known by the British Minister; but their being known by our Government and by us, and the embargo growing out of them, is the point at issue. A gentleman told me the other day, "you forget that though they were not known, the probability of them was known." This is a new discovery; what kind of knowledge is this same knowledge of probability, sir? Their probability might have been conjecture; but did that imply a knowledge that such orders had issued, or would issue? And can you assume that fact without throwing on the late President of the United States a degree of odium which, in my opinion, he is not fairly entitled to? I think it is treating him unjustly and cruelly to suppose that they were known. For, in supposing it, you presuppose that he has failed in his duty in communicating it in that Message which recommended the embargo. The Orders in Council were not known in this city or in this House when the President of the United States recommended that embargo. I protest upon my honor that they were not known to me; nor did I hear them mentioned on that day. As to their having been known in New York, you might as well say that they were known in Quebec or Halifax, or even London itself. What does the fact of their having been known in New York prove but that they were known in New York? Could that knowledge at New York be a rule of conduct for us? If the Orders in Council were known at the time that the President recommended the embargo, let the proofs be produced; and though I should not be willing to vote either approbation or disapprobation on this subject, I should be at a loss how to refuse a vote of disapprobation on the conduct of the late President of the United

States for neglecting to apprise us of their existence. But he did his duty. He knew not of any Orders in Council, and mentioned none; the embargo grew out of the state of affairs which existed when we were in perfect ignorance of the Orders in Council, out of the correspondence from Paris, in relation to the Berlin decree, and the British proclamation respecting seamen.

Sir, in speaking of the amendment moved by the worthy gentleman from Massachusetts, whom I see in his place, and my reluctance to vote for it, my meaning may have been misunderstood, and probably because it was not very correctly expressed. When we speak of the Government of the United States, what do we mean? Do we mean the President of the United States and his Secretaries, or the Executive, Legislative, and Judiciary, but more especially the Executive and Legislature? Now, when I spoke of the disposition of the Government of the United States, I had particularly in my eye the manifestation of a spirit in the other House of Congress, and in this also, which demonstrated most conclusively to my mind that notwithstanding our celebrated vote of "and France"—bringing up France in the rear like a needless Alexandrine, like the latter part of a wounded snake, dragging its slow length along—that there did, under all this smoke of hostility to both belligerents, exist a cool, deliberate disposition to go to war with one only; and I take motions made in the other branch of the Legislature, and motions and speeches made on this floor, and on record, as a proof of such disposition. I infer the disposition of Government not merely from declarations of the President of the United States himself, but from the semi-official oracular sayings of gentlemen supposed to be, and in fact known to be, in his confidence. I did hear, and I confess I heard it with some pleasure, that there existed a difference of opinion on this subject in the Cabinet at the late session of Congress; and that the late President of the United States (God bless him for it!) on that question was with us, and would not be driven into a war with England; and that the leaders of the war party were deplorably chagrined and disappointed by it. So, when I speak of the Government of the United States, I wish not to be understood as alluding to any disposition which the late President of the United States had to go to war with Great Britain. But, sir, I do think, after hearing the report of the late Committee of Foreign Relations, declaring that there were but two alternatives, embargo or war, and seeing all the members but two vote to this effect, that war with one of these nations was submission, and submission the most base and abject, too, to the other; and then hearing gentlemen declare they were for war with one of those nations, the conclusion is irresistible that they were for making that abject submission to the other nation, or that it was mere hollow hypocrisy for covering the design of going to war with one of those belligerents, and succumbing to the other. I should be childish not to believe that there did exist a disposition such as the gentleman from Virginia

MAY, 1809.

Vote of Approbation.

H. OF R.

(Mr. JACKSON) intimates did not exist in what he calls the Government of the United States.

One other subject I must touch before I sit down. The change in the relations of the United States is ascribed to the non-intercourse law. Against that law I most certainly voted. If the merit of that change is to be ascribed to the non-intercourse law, be it so. I have no objection. But who were the advocates of that poor miserable measure? Our worthy chairman of the Committee of Ways and Means (Mr. EPPES) portrayed in hideous colors the horrible features of that law; and another gentleman from the same State (Mr. JACKSON) made motion after motion till a very late hour in the night to defeat the law, whilst I sat still voting in its favor until the last stage; and I voted against it eventually, not because I felt any opposition to the law on the grounds which those gentlemen did, but because I believed if we had not got rid of the embargo on those terms, that we should have got rid of it on better. Mine was a sort of negative opposition to the law; theirs positive and unqualified; they said it was absolute disgrace. Now, therefore, sir, if the change in our foreign relations is to be ascribed to that law, I wish the advocates of it to rise up and assert their share in it in the presence of the House. The fact is, that nobody would advocate it; that though it was carried by a majority of two to one, those who finally voted for it condemned it, and all parties seemed ashamed of it; and that, prior to the late restoration of good understanding, all the high-toned men and high-toned presses in this country denounced the majority of this House for passing that law, as having utterly disgraced themselves. If, therefore, any credit be due to the non-intercourse law, I do not wish it to be run away with by those who were enemies to the measure. I voted against the law because I thought we could have got rid of the embargo on better terms. Are those to have the credit of it who said that, if their opinion was followed, they were for immediate war, and with Great Britain; but who, finding their friends could not be screwed up to the war-pitch, had made a sort of compromise of their wishes, and agreed to accept this stupid unmeaning non-intercourse law by way of appearing to be doing something? No, sir. Are those to have the merit of the reconciliation who moved to issue letters of marque and reprisal—a scheme which, thank God, I had some share in defeating? Are those to have the merit of the good consequences which are alleged to have flowed from the non-intercourse law? Certainly not. I really think, sir, that if there be any merit anywhere, it belongs to those men who prevented a powerful and energetic party in this and the other House of Congress—a party, too, standing high in Executive confidence—from dragging the Executive, against his will, and this House, and this nation, into a war with Great Britain. It is those men who deserve the credit; and I, for one, although a desultory kind of partisan, acting on my own impulse, claim my share; for if the great leaders could have been gratified, according to their own show-

ing, they would have dragged this country into a war with Great Britain, which certainly would have closed the door to the present happy arrangement. Their war-speeches were printed by subscription and bound up; and I venture to say that some fifty years hence they will form a curiosity in literature; they stand on record against their authors. Now, to be sure, sir, those persons who undertook to stop their wild career were composed of heterogeneous materials—even those who have been designated (I know not why) as ultra-federalists and citra-federalists, if any such there be, united on this vote. There were minority men, caucus men, protesters—in fact, sir, all parties, Catholics, Protestants, Seceders, and all, were united in the effort to prevent the leaders of both Houses from plunging the nation into a war with one power, and knuckling to the other—from rivetting the chains of French influence, perhaps of French alliance, upon us. Thank God that their designs were proclaimed to the nation, that the President did not give his consent, which would have made us kick the beam. Yes, sir, federalists, minority men, protesters and all would have kicked the beam if it had ever emanated from the Cabinet that the President was for war. It was as much as old Nestor, with trusty Sthenelus by his side, and all the train could do, to arrest those fiery hotheaded steeds who were hurrying the state-carriage down the precipice of French alliance. Suppose that we had given them the reins, where should we have been, and what doing, at this time, sir? We should have been here, indeed—discussing abstract propositions, as they are called? No, sir, we should have been voting supplies; we should have gone in full committee of supply and of ways and means, and come out of it almost as soon as we did out of the Committee on the state of the Union on the President's Message; for our whole arcana of raising money appears to consist in borrowing; loans, loans, loans, are the alpha and omega, the sum and substance of our system of political economy; and the worthy gentleman who presides at the head of the Committee of Ways and Means would now have been calling for loans with all his might. We should have been marching troops to Canada, passing acts for the relief of sufferers in the bombardment of New York, discussing whether the owners of slaves stolen from the seaboard should be compensated by the General Government or not. This is the situation in which we should have been in fact, instead of being in the situation in which we now are—the merit of which, if any there be, is not due to those who arrogate it to themselves, but to the late President of the United States and that majority, however discordant the materials composing it, who defeated the cabal in the two Houses of Congress, that was determined to plunge us into a war; who restrained what have been called (and it is no nomenclature of mine) the Invincibles; who curbed what has been called (and I am not the sponsor) the Family Compact.

Before I sit down, sir, permit me to state expressly and unequivocally, and I deem it more

H. OF R.

Proceedings.

MAY, 1869.

especially my duty to state it because the gentleman is not present, that in the course of that discussion and the votes on the subject, the Chairman of the Committee of Foreign Relations (Mr. G. W. CAMPBELL) did act, as I conceived, a consistent and open part; that after declaring that we could not go to war without going to a war with both France and England, that we could not go to war with one without the most abject submission to the other; he was not willing, if I understood him aright, to make that submission by going to war with that other. Other gentlemen, perhaps, to whom my attention was not so much called, not being placed in so conspicuous a station in the House as that gentleman, may have done the same. There was another gentleman in the House, in respect to whom I feel it incumbent on me to say something. He was one of those who have been marked and branded, and are suspected of being minority men. I allude particularly to a worthy friend of mine, now no longer a member of this House, (Mr. D. R. WILLIAMS,) than whom, I believe, there is not a more honest man breathing, who was not only a minority man, but, worse than all that, "one of the protesters," and whose speech was very much relied on as the best speech made in favor of the war party. Sir, you recollect that that gentleman declared his disposition, together with my friend who sits before me, of clinging to the embargo, and that was the great point of difference between us; and as to the gentleman who sits before me, (Mr. MACON,) it is only the third point in which I have had the misfortune to differ with him since I came into public life. When they, therefore, advocated this warlike doctrine, it was under the belief that nothing was left, if the embargo was raised, but submission or war; and they preferred the embargo to war, but they preferred war to submission. It was particularly the doctrine of the gentleman from South Carolina who is no longer a member of this House, and to whom, these observations, loose and unsatisfactory as they may be, are more especially applied. But there is no other point of contact, as far as within my knowledge, but his partiality to the embargo, and his disposition to go to war, if it were raised, between him and those who, thank God, defeated the war purposes.

On the subject of a desire to excite a war spirit, I think it necessary to state that motions and speeches were not only made with that tendency, but with that avowed disposition in both Houses of Congress. And I repeat it, to whatever source the present situation of the country is to be ascribed, it is not to those who were termed thorough-going men in this House in the last Congress, nor to those of the same description in the Senate, though they have been checked, to be sure, by an opposition of the strangest kind; but, it is unimportant of what materials it was composed, since it had the effect of saving the nation from war with one of the belligerents, and of producing the present state of things, which gentlemen themselves tell us was the consequence of our having avoided war.

When Mr. RANDOLPH concluded, a motion was made by Mr. SMILIE to adjourn, and carried—yeas 70.

TUESDAY, May 30.

A motion was made by Mr. RANDOLPH, to expunge from the journal of the proceedings of yesterday, so much of that part of the Speaker's decision as is contained in the following words: "As the hour which the House had usually appropriated for the presentation of petitions and communications had not elapsed; and that he had some communications to lay before the House from some of the Executive Departments;"

And the question being taken thereupon, it was determined in the negative.

Mr. LEWIS presented a memorial of manufacturers of hats, in the town of Alexandria, in the District of Columbia, to the like effect with a memorial of the manufacturers of hats in Fredericktown, State of Maryland, presented to the House on the twenty-fifth instant.

The SPEAKER laid before the House a letter from the Governor of the State of Virginia, enclosing the certificate of the election of John Dawson, to serve as one of the Representatives of that State in the Eleventh Congress of the United States; which were referred to the Committee of Elections.

Mr. MORROW, from the Committee on the Public Lands, presented a bill supplementary to an act, entitled "An act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians, and to establish a Land Office in the Mississippi Territory; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. JOHN G. JACKSON, from the committee appointed on so much of the Message from the President of the United States as respects our foreign relations, presented a bill to repeal the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, and to revive and amend the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" which was read twice and committed to a Committee of the Whole on Friday next.

Mr. SAY presented a petition of the sugar refiners in the city of Philadelphia, of the like tenor and to the same effect with a petition of the sugar refiners of Boston, in the State of Massachusetts, presented on the twenty-seventh instant.

Mr. SAY also presented a memorial of the manufacturers of hats in the city and county of Philadelphia, to the like effect with the petitions from the manufacturers of hats before stated.

Mr. McKIM presented a memorial of the manufacturers of cotton goods in the city of Baltimore, State of Maryland, praying that an additional duty may be imposed on the importation from any foreign port or place of articles manufactured from cotton.

MAY, 1809.

Third Census—American Seamen.

H. OF R.

Mr. MUMFORD presented two memorials of the manufacturers of hats in the city of New York, to the like effect with the memorials from the manufacturers of hats before stated.

Mr. JOHN PORTER presented a petition of sundry manufacturers and bottlers of malt liquors, in the city of Philadelphia, whose names are thereunto subscribed, praying that black glass bottles may be imported free of duty; and that so much of a law which prohibits the importation of certain goods, wares, and merchandise, and which prevents the introduction of malt liquors from foreign countries, may be continued in force, or that an additional duty may be imposed upon the importation thereof.

Ordered, That the said memorials and petitions be severally referred to the Committee of Commerce and Manufactures.

A message from the Senate informed the House that the Senate have appointed Mr. GILES, Mr. FRANKLIN, and Mr. HILLHOUSE, a committee on their part, jointly, with the committee appointed on the part of this House, to inquire what business it is requisite should be done at the present session.

Mr. WITHERSPOON presented a petition of John Ervine, on behalf of himself, James Gregg, and Roger Roberts, of the State of South Carolina, praying to be paid the amount of his account as principal assessor, and of the accounts of the said Gregg and Roberts, as assistant assessors, under the act laying and collecting a direct tax within the United States, for the county of Liberty, in the said State of South Carolina.

The petition was read and referred to the Committee of Claims.

Mr. GOLD presented the petition of Mrs. Hamilton, widow of the late General Alexander Hamilton of New York, stating that her husband was a Colonel during the Revolutionary war, and as such entitled to half pay; but that from his delicate situation as a member of Congress he had relinquished his claim, the amount of which the petitioner prays may be allowed to her. Mr. GOLD moved a reference to the Committee of Claims. Mr. GHOLSON moved to refer the petition, together with one which he conceived to be similar, to a select committee. On this motion a debate of near two hours, upon the subject of claims generally, took place, in which Messrs. GHOLSON, GOLD, MACON, SOUTHARD, LYON, TALLMADGE, NELSON, QUINCY, SMILIE, GARDENIER, and RANDOLPH, partook. The petition was eventually referred to the Committee of Claims by a small majority.

THIRD CENSUS OF THE UNITED STATES.

Mr. RANDOLPH said that it was now precisely ten years since he had the honor of being a member of this House. The first session of the sixth Congress was held at Philadelphia in December, '99; and at that session a law was passed for taking the second census of the inhabitants of the United States. It had been then allowed on all hands that that law was delayed so long, that the

marshals had not time to make the proper enumeration in as accurate and faithful manner as it ought to have been done. On the third census of the people of the United States would depend not merely the gross numbers of this House, but the relative weight of the Southern and Western, and, in fact, of the Middle and Eastern States, for perhaps none were increasing with greater rapidity than the two great Middle States of New York and Pennsylvania. He thought it proper that provision should be made at this session for taking the third census. Such a provision could not accelerate the time, but would enable the officers of the United States to take proper means to insure the excellence of the work. He, therefore, moved—

“That provision ought to be made by law for taking the third census of the inhabitants of the United States.”

Mr. LYON expressed his pleasure at seeing this proposition introduced. He said it was important that the people of the United States should be represented according to their numbers. The district which he had the honor to represent contained more than 100,000 souls. The State of Ohio had by this time a population of 200,000 souls, and had but one Representative; the State of Tennessee had perhaps doubled its population. It behooved Congress to set about the business as soon as they could.

Mr. W. ALSTON conceived that it was necessary that the census should be taken in every part of the Union as nearly at the same time as possible. Were the law now to be passed, it might be taken in some parts of the United States between now and January next, and in other parts in not less than three years. He hoped, he said, that the House would not be thus troubled with unnecessary business. If the passage of the law were deferred for a session or two, the different parts would be more equally represented, though an immediate census might be favorable to his part of the country, because he was convinced that it was losing ground in the general scale of population of the United States.

On the suggestion of Mr. QUINCY, with the consent of Mr. RANDOLPH, the motion was ordered to lie on the table—yeas 101.

AMERICAN SEAMEN.

Mr. DANA said that he rose for the purpose of calling the attention of the House to a subject which could not but be interesting to the Councils of the nation. It related to American seamen. He wished to propose a resolution, the object of which was to designate American seamen, and to insure to them the benefits properly appertaining to that character. It was a proposition which could not impede any object which the Administration could have in view, or embarrass any negotiation with foreign Powers. He was the more desirous to bring up this subject, because it was extremely difficult to ascertain the number of foreign seamen in the service of the United States. In answer to an inquiry made at the last session, with a view to ascertain the number of foreign seamen

H. OF R.

Vote of Approbation.

MAY, 1809.

who had been naturalized, an answer had been received, which, although he knew much deception had been practised, astonished him. He said it might be presumed that there were on board American shipping, between ten and twenty thousand seamen, who were not natives of America. In the course of twelve years, the whole number of persons naturalized according to the laws of the United States, and registered as seamen, did not amount to four hundred and fifty! It might be set down for fact, Mr. D. said, that under our existing laws not less than ten thousand certificates of protection are annually afloat, which are obtained by fals swearing. To this fraud he wished to put an end. At present vessels might claim the privilege of carrying the American flag, without a single American mariner on board, a permission contrary to the usage of all civilized nations. For the security and encouragement of our seamen, therefore, he proposed the following resolution:

Resolved, That, for the benefit of the seamen of the United States, it is proper to make provision, that registered ships or vessels shall not be entitled to the privilege of ships or vessels of the United States, unless a certain proportion of mariners on board the same shall be citizens of the United States.

On the suggestion of Mr. BURWELL, with the consent of Mr. DANA, the resolution was ordered to lie on the table.

ARMED TRADE.

Mr. DANA said he wished to propose another resolution, the object of which contemplated a provision for arming the commerce of the United States, not as against any particular Power, but it was an attempt to draw a line of discrimination between armaments for defence and armaments for attack, between the principle of resistance to aggression of foreign nations, and the principle of reprisal; in fact, an attempt at experiment, whether we could not transfer to the water that system which exists on the land, for a practical demonstration of which he would refer to gentlemen from the Western country, where he understood that the citizens, individually or combined, armed for their defence against predatory incursions or attack. This was a species of arming distinct from arming for attack or plunder. The resolution which he held in his hand was similar to one proposed at a late day last session; it was however directed against one principle, and that was the principle of blockade by proclamation. It completely contravened the principle of the French decrees as to British ports, and the principle of the British Orders in Council. The resolution was as follows:

Resolved, That it is expedient to make provision, by law, to allow merchant vessels of the United States to be armed for defence in voyages to ports of Europe, the West Indies, and Atlantic coast of America, and, accordingly, to furnish the documentary evidence, which may be proper in any such case to manifest the defensive character of the armament allowed; and at the same time by law to require securities for the vessels respectively, that they will not proceed to any port

known to be actually blockaded, nor carry articles contraband of war to the dominions of a belligerent Power, nor violate the laws or treaties of the United States, or the rules of public law by them acknowledged, but will observe the instructions which may be given by the President of the United States for preventing all such violations, and that due satisfaction shall be made for all damages and injuries, if any should be committed in contravention thereof.

It was referred to a Committee of the Whole, on Friday next, on motion of Mr. DANA.

VOTE OF APPROBATION.

The unfinished business of yesterday was resumed, ayes 63.

Mr. J. G. JACKSON withdrew his motion for indefinite postponement, and Mr. NELSON renewed it.

Mr. JOHNSON said that at this extra session he had fondly hoped he should have had it in his power to be a silent member, but he regretted that duty compelled him to address the Speaker at this late hour of the day, when all must be fatigued, and upon a subject that had involved a discussion unpleasant, unprofitable, and even mischievous. The Executive in his communication to us, said Mr. J., has avoided detail upon the subject of the expected negotiation in the late settlement of our differences, and we should avoid it as much as possible. But this motion has been introduced for the laudable purpose of discovering the difference of opinion in this place upon the late transaction respecting our foreign relations with Great Britain, by the settlement of the affair of the Chesapeake, and the renewal of commercial intercourse. The gentleman from Virginia believes there are men in this House who disapprove the conduct of the President. I disbelieve it, because I have no evidence of it. I have heard in this body, and out of doors, universal approbation. The prospect of peace has been hailed as a political jubilee. No difference does exist upon the subject. But, sir, there is a diversity of sentiment or expectation how the promised negotiation with Great Britain will ultimate. Some are more, and others less sanguine. And, when we consult the volume of experience, and recollect the many important subjects of settlement, it is not wonderful if we should have our fears and our hopes on the subject in different degrees. Let us hope for good, but be prepared for evil, that a reverse of the present prospect may not change excessive joy into deep mourning.

The mover of this resolution has attempted to draw a line of distinction between the late and the present Administration in respect to our foreign relations. The two Administrations, so far as Mr. Madison has progressed, are the same in principle, and the same in conduct, animated by the same spirit of moderation, firmness, and justice towards other nations. But the mover of this motion says the propositions under the two Administrations were different, and that the late adjustment is more advantageous to Great Britain. The propositions made by Mr. Jefferson and Mr. Madison were the same. In the first instance

MAY, 1809.

Vote of Approbation.

H. OF R.

they were rejected by Mr. Canning with a sneering contempt unworthy a great man. The proposition in each case, was this: Rescind your Orders in Council, and we will suspend the laws interdicting the commercial intercourse between the two nations. Upon what principle did Mr. Canning reject this just offer? Because Bonaparte had blockaded the Continent, and he was determined that the present and future generations should see that Great Britain would never relinquish her Orders in Council until the policy of Bonaparte should be abandoned—that the honor and power of the British Government rested in some good degree upon it. But now, the same propositions have been accepted, although the Continent is more completely blockaded than when the same proposition had been rejected; for, even Spain and Portugal, upon which British hopes rested, are now closed. Those who opposed the wise measures of our Government may say, to shield themselves, that we have yielded. We have not yielded. Great Britain has abandoned her unjust system of restriction upon our commerce; and the United States stand redeemed from any charge of inconsistency. It will be a difficult task to convince the enlightened citizens of the United States that there has been a difference in the conduct of the present and the late illustrious President. So far from the shadow of proof that such a difference does exist, the very act of the present Chief Magistrate grew out of the law of Congress passed under Mr. Jefferson's Administration. This law gave certain powers, and imposed certain duties, to be exercised and performed upon certain and defined contingencies. Upon the happening of these contingencies, viz: the rescinding the Orders in Council, &c., Mr. Madison promptly performed his duty by suspending our non-intercourse system as to Great Britain, for the renewal of our commerce. Who is so sagacious in the powers of discrimination as to draw a line of distinction, when the conduct of the Administrations are so united and identified that the act of one grew out of the law of the other? But, the measures of our Government which have produced such happy results are likely to be popular, and it is necessary for those who thought we took too high ground, to secure a retreat in their defeat by endeavoring to draw this nice distinction.

But it is said that the late adjustment is more advantageous to Great Britain than the former proposal by us, because our waters are not interdicted to British armed vessels, and because French armed vessels are prohibited. Sir, the interdict which excludes British and French armed vessels still remains in full force and virtue. It has not been taken off as to British armed vessels. The proclamation of the President has only made the trade renewable on the 10th of June. He had no control over the interdict; nor did the British Minister make it a *sine qua non*, as did Mr. Rose, in settling the affair of the Chesapeake. Here again we have remained firm, and Great Britain has yielded the improper ground which she had previously taken. It is said that French armed

vessels are now excluded our waters, and this was not the case when former propositions were made to the British Ministry; and that we are now in the situation, as it respects France, that Great Britain wished. Admit all this, and what is the result? That France had done nothing to induce an interdict of her armed vessels when the attack was made on the Chesapeake, which was the principal, though not the only event which produced the proclamation of interdict against Great Britain—and certainly no American would wish to take hostile measures against a nation without previous aggression. After this proclamation of interdict, Bonaparte executed his Berlin decree, issued his Milan decree, burnt our vessels upon the high seas, interrupted our commerce in the Mediterranean and the Channel. Congress convened, and, in consequence of those aggressions, we passed a law extending the interdict to French and English armed vessels. Governed by the same policy, we proceeded against both nations as our injuries multiplied, and not because either nation required it against the other. The measures of this Government have been opposed in this House because it seemed to some that their effects would be more injurious to Great Britain than France. I presume gentlemen will now be satisfied of the strict line of neutral conduct which has characterized the American people towards the two rival Powers of Europe; or that our measures were equally hostile as it respected both nations, since it has been asserted even in the Parliament of Great Britain. It has not only been proclaimed in the Parliament, but by the Government of Great Britain, through their Ministers at this place in the late negotiations. This is a triumph to good principles.

It is a painful subject, sir, but I must speak of the conduct of the opposition, since they modestly assume to themselves the credit of saving this nation from impending calamity. It is novel, though not surprising, (for nothing now is to be wondered at,) that those who vote against measures should claim the credit of the good arising from them, while those who supported those measures only should bear the blame, and be responsible for all the evils which naturally result from the best measures. This doctrine once established will make a new code of politics: Those who oppose measures are entitled to all the good resulting from them; and those who voted for them, are to be responsible to the nation for all the evil they produce. This claim is too absurd and ridiculous to need a comment. But let us examine the conduct connected with the politics of the opposition. We were advised to repeal the partial non-importation law; to rescind the proclamation of interdict against British armed vessels; to repeal the embargo; and, in short, to retrace our steps and undo everything we had done to resist the aggressions of Great Britain. In addition to this, we were told by the opposition that Great Britain was fighting for existence; that in fact she was fighting our battles; that she would never yield to our restrictive system; that we had no just cause of complaint against Great Britain; that

H. OF R.

Vote of Approbation.

MAY, 1809.

this Government were in the wrong; that we should unfurl the republican banners against the imperial standard, and much more such language. What humiliation do we find here! The mind of every member of the American community should sicken at the recital. What terms of accommodation would this course have produced? I will not condescend to conjecture them.

But now, sir, of the particular course recommended by the mover of this resolution (Mr. RANDOLPH)—what was his policy? At one particular period he recommended giving aid to the Spanish patriots against Bonaparte, and fighting Great Britain by taking the Canadas. But when the gentleman matured his system and reduced it to writing, he was for arming your merchant vessels. This was war with our hands tied, the most ineffectual war. Will any gentleman deny that this would have produced war of the most disastrous kind if Great Britain had not yielded? And still that gentleman claims part of the credit on keeping this nation out of war. The Republicans did not want war, they preferred the embargo. But they preferred war to submission, when they discovered that the embargo could not be continued, owing to the clamor and infamous conduct of those who violated it. I shall always think war a blessing compared with submission to be taxed by a foreign Government. It was that manly stand, it was that warlike attitude which produced the happy result which all are willing to approbate. When the British Ministry sent their acceptance to our propositions, did they know of the partial repeal? They did not. They had before them the report of the committee, which declared that we would not submit to foreign outrage. They had before them the proposition from the Secretary of War for raising 50,000 volunteers. They had before them the speeches made upon the extra meeting of Congress, which declared our object to be justice or war.

I have not only voted my own sentiments but the sentiments of my native State upon the measures which have produced so much good to this nation. But these measures have been pronounced by many in this House as ruinous and destructive, and by those, too, who are now anxious to approbate the result of those measures.

Sir, I am happy to find this a day of reformation, I wish to see it continue. When I voted to make an appropriation for the purchase of supplies after the attack on the Chesapeake, I was wrong; when I voted for the embargo, I was wrong; when I voted for 6,000 regulars to defend Orleans and our frontier settlements against hostile savages, and when the British armed vessels hovered on our coast in hostile array, I was wrong; when I voted to give power to the President to suspend the embargo, if Great Britain would rescind her Orders in Council, I was wrong. The first session ended and the second commenced, and the same word continually assailed my ear. When I voted to enforce the embargo, I was wrong; when I voted for letters of marque and reprisals, I was wrong; and what was most extraordinary with those who denounced these measures, every mea-

sure was the very worst measure. And now, sir, we are rejoicing in the happy change produced by these very measures—and rejoicing, too, when we had reason to expect, from the predictions of gentlemen, that before this period another Volney might have seated himself upon the ruins of this splendid building, and mourned the downfall of the Great Republic! We were told in the same style that the Republican Administration had departed from Whig principles; but no time could be agreed upon by gentlemen on which this departure from good principles took place. Some gentlemen declared that Republicans quit the true faith in 1805–6, others that it was 1807–8. But the greatest number dated this departure from the time Mr. Jefferson was inducted into office. I have reflected on this subject, and this is my conclusion:—That the same principles have governed the whole of Mr. Jefferson's Administration, and if there has been a departure from Whig principles it commenced in 1801. Let the nation then judge what Administration they prefer, the Federal or Republican. The policy of Mr. Jefferson has been peace and economy. The principles of many who oppose this policy would involve us in external war, in search after that phantom the balance of power, which has desolated Europe without any practical good. Neutrality has been the favorite theme of Republicans; and the balance has been held with a steady hand. When we are driven into war it must be for our own wrongs; and when we make peace, we must have no Power to consult, no common cause, no alliances. Separated as we are from the whole of Europe it would be madness to fight France because England is weak, or fight England because France is weak. We do not hold our independence by such a tenure. The folly of such politics for the United States may be illustrated by the example before us in the war of 1756, and other coalitions put down at the battle of Marengo, Austerlitz, and Jena. Public debts, taxes, armies, and famine and death, are the fruits of these contests.

The gentleman from Virginia (Mr. RANDOLPH) stated that there was a strong war party in this House who wanted to select Great Britain as their antagonist, which would have produced alliance with France. A gentleman from South Carolina, the particular friend of the gentleman, was, I believe the only republican who expressed a wish on this floor to make a selection of Great Britain. The republicans were of opinion that honor required that we should fight both rather than make a selection, while both nations continued their aggressions. But it will be recollected that the federal gentlemen asserted and repeated that we ought to make a selection, and an ingenious gentleman from Connecticut almost demonstrated that a triangular war would be an absurdity. I am in favor of an indefinite postponement. But if we vote upon the resolution. I will vote for it, because I approbate the conduct of the President.

But this is an improper place to introduce such a resolution, as it takes up much time upon a

MAY, 1809.

Proceedings.

H. OF R.

subject not connected with our duties of Legislation.

When Mr. J. had concluded, several members rising to speak, a motion was made to adjourn, and carried, ayes 66.

WEDNESDAY, May 31.

JULIAN POYDRAS appeared, produced his credentials, was qualified, and took his seat, as the Delegate for the Territory of Orleans.

Mr. McKIM presented a petition of thirty-five American citizens confined at Carthagenia, in South America, under sentence of slavery, stating that, through means of falsehood and deception, they were induced to engage in the unlawful expedition of Miranda, fitted out from the city of New York, in the year one thousand eight hundred and six, and that they were captured by the Spaniards, and condemned to slavery, and praying that Congress will take their distressing case into consideration, and effect their release and return to their native country.—Referred to Mr. McKIM, Mr. SAY, Mr. EMMETT, Mr. ROANE, and Mr. COCHRAN, to examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. SOUTHARD, from the Committee of Revision and Unfinished Business, made a report, in part, of such laws as have expired, or are near expiring; which was read, and ordered to lie on the table.

Mr. LIVERMORE presented a memorial of the manufacturers of hats in the towns of Newburyport and Newbury, in the State of Massachusetts, of the like effect with several memorials of the manufacturers of hats before stated.—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. MARION,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of continuing in force the act passed on the twenty-eighth of March, one thousand eight hundred and six, entitled "An act declaring the consent of Congress to an act of the State of South Carolina, passed on the twenty-first day of December, in the year one thousand eight hundred and four, so far as the same relates to authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports."

Mr. MUMFORD presented a petition of the sugar refiners in the city of New York, to the same effect with a petition of the sugar refiners of Boston, presented on the twenty-seventh instant.

Mr. NEWTON presented a petition of the sugar refiners in the town of Alexandria, to the same effect with the petition last stated.—Referred to the Committee of Commerce and Manufactures.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill authorizing the Accounting officers of the Treasury Department to give credit to certain Collectors of the Customs for allowances paid by them to the owners and crews of fishing vessels; which was read twice and committed to a Committee of the Whole on Friday next.

11th CON. 1st SESS.—6

A motion was made by Mr. RHEA, of Tennessee, that the House do come to the following resolution:

Resolved, That the Committee on the Public Lands do inquire into the expediency of laying off and describing, by certain metes and bounds, a tract of country to which the Indian title is extinguished, within the limits of Louisiana, and to include all the settlements within the said Territory, and of having the said tract of country laid off into townships and sections, half and quarter sections, agreeably to the several laws heretofore made for surveying the public lands of the United States; and also to inquire into the expediency of granting one quarter of a section to every free male white person who now resides thereon, or who will, within — years, actually improve and reside thereon.

This resolution was supported by Mr. RHEA, on the ground that the settlements in that country were much exposed, and that the speedy settlement of it would give security to the frontiers, and form a barrier between the American settlers and the Indian nations on the frontier. It was opposed by Mr. ELY, on the ground that the subject had for several sessions been before the Committee of Public Lands, who, however disposed to act on it, had never been able to perceive that any good was to result from it; and by Mr. LYON, on the ground, that the very reference of the subject to a committee would be an injury to the United States and a vexation to the people, delaying them from purchasing lands, under the idea that Congress were about to give them to the settlers.

The motion was negatived—52 to 44.

A motion was made by Mr. LEWIS, that the House do come to the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of removing from West Point the Corps of Engineers, constituting the Military Academy, to the City of Washington; and that leave be given to report by bill, or otherwise.

And on the question that the House do proceed to take the said proposed resolution into consideration, it was determined in the negative.—51 to 47.

Mr. BACON, moved that the House do come to the following resolution:

Resolved, That the Secretary of the Treasury be directed to prepare and report to this House, at their next session, a plan for the application of such means as are within the power of Congress, for the purpose of protecting and fostering the manufactures of the United States, together with a statement of the several manufacturing establishments which have been commenced, the progress which has been made in them, and the success with which they have been attended; and such other information as, in the opinion of the Secretary, shall be material in exhibiting a general view of the manufactures of the United States.

A motion having been made to print the resolution,

Mr. LYON opposed the printing of it. He said that something should be done at this session for the benefit of the manufacturers. It was cold comfort to them to tell them that they should have a report on the subject at the next session.

H. OF R.

Vote of Approbation.

MAY, 1809.

He would not postpone a consideration of the subject, for the fear of giving offence to the British Government by manufacturing for ourselves. He would proclaim to the world our intention to encourage manufactures.

Mr. BACON concurred heartily in the patriotic views of the gentleman from Kentucky in encouraging the manufactures of our country. He had no idea by this motion of interfering with any particular measure which the gentleman wished to adopt in relation to manufactures; he merely looked forward to the establishment of some practical system for the encouragement of manufactures.

It was ordered to be printed.

Mr. RICHARDS presented a memorial of the manufacturers of hats in the borough of Reading, and State of Pennsylvania, to the like effect with the memorials from sundry other manufacturers of hats, before stated—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. NELSON, a committee was appointed to inquire into the expediency of making provision, by law, for the relief of the infirm, disabled, and superannuated officers and soldiers of the late Revolutionary army, and of the present army of the United States; with leave to report by bill, or otherwise. Mr. NELSON, Mr. BLAISDELL, Mr. BAYLIES, Mr. MATTHEWS, and Mr. SHEFFEY, were appointed a committee, pursuant to the resolution.

Mr. POINDEXTER, from the committee appointed on the twenty-seventh instant, presented a bill to authorize the citizens of Madison county, in the Mississippi Territory, to elect one Representative to the General Assembly of said Territory; which was read twice and committed to a Committee of the Whole to-morrow.

Ordered, That Mr. BURWELL and Mr. GARDNER be appointed a committee to present to the President of the United States a resolution agreed to by this House on the twenty-seventh instant.

On motion of Mr. DANA, the resolution proposed by him on the thirtieth instant, relating to American seamen, was referred to Mr. DANA, Mr. BURWELL, Mr. COOK, Mr. COBB, and Mr. N. R. MOORE, with leave to report thereon by bill, or otherwise.

The resolution for appointing a committee to inquire into the application of public moneys, heretofore agreed to by the House, but reconsidered for the purpose of amendment, was amended so as to limit the duties of the committee to an investigation of the money transactions of the last eight years, and passed; and Messrs. RANDOLPH, MACON, SMILIE, J. C. CHAMBERLAIN, SEAVER, HOWARD, and SOUTHARD, were appointed the committee.

PROCESS AGAINST MARSHALS.

Mr. RANDOLPH, after making a number of remarks on the subject of the present session, in favor of doing the ordinary business of the annual session at this time, and hereafter holding the annual sessions in the Spring instead of the Winter, stated that he should proceed to the ordinary

business of an annual session, until the House should come to some definite conclusion as to what time they would adjourn. He then stated that by a letter which he had received from the Marshal of the district of Virginia, and which from its being printed he believed to be a circular, he learnt that there was no provision by the laws of the United States for a summary process for the purpose of recovering from the marshals and their deputies, moneys paid to them, and by them detained by those to whom it was due. It appeared that the judges had decided that they were bound in their proceedings by no State laws in the respective States, except such as were in force when the United States' courts were first organized, those laws then in existence in the several States having been adopted by Congress. If this was the case, it was certainly a *casus omissus*, and one to which the attention of Congress ought to be turned. He therefore moved,

"That a committee be appointed to inquire whether any and what provision ought to be made by law for enforcing a summary mode of proceeding against marshals and their deputies who have received money by virtue of executions issued from the Courts of the United States."

After some observations from Mr. BASSETT, on the probability of a short session, and from Mr. LIVERMORE, going to show that the resolution was supererogatory, it was agreed to without a division, and Messrs. RANDOLPH, STANFORD, LIVERMORE, KNICKERBACKER, and LYLE, appointed the committee.

VOTE OF APPROBATION.

The House then resumed the unfinished business of yesterday.

Mr. ROSS said, that when he heard reasons assigned and principles stated as a ground of action for adopting or rejecting the resolution now submitted to the consideration of the House, which were in his opinion erroneous, he could not omit offering to the consideration of the House those views which he entertained on the subject. He said he should not on this occasion either pledge his life or appeal to his God for the veracity of his declarations; but he hoped the House would do him the justice to believe that he was equally as sincere as if he had made those pledges. I shall not on this occasion, said Mr. R., deny that this House possesses common law jurisdiction, and then declare that common law is founded on common sense; because, if I did, I believe that the good sense of the House would revolt at such a proposition. I shall not insult the feelings of this House by saying that all the propositions which I offer or state are true, and correct, and that every man of common honesty and common sense would say with me; for I have too great a deference for the opinion of others to be guilty of such indecorum.

I have endeavored, sir, as far as I have been able to collect, from the different members who have spoken, the points of objection taken to this resolution. I would, had I powers and abilities, endeavor to examine them, and to throw that

MAY, 1809.

Vote of Approbation.

H. OF R.

light upon it which I think its importance deserves. It is, and perhaps will remain, one of the wonders of the world, that a resolution, which it was said every man agreed to the truth of the statements therein contained, and the conclusions drawn therefrom no one pretended to doubt, should, after this admission, maintain a discussion, consuming day after day and week after week, in the debate whether it should be adopted or not. But, strange as this is, it is nevertheless true.

The first objection which has presented itself to my consideration, as having been urged against the adoption of the resolution, is, that every member of the House, and every person in the United States agree precisely in the sentiments expressed in that resolution. I am not prepared to say, if this assertion be correct in point of fact, that it is a conclusive argument against adopting the resolution, for I find that those gentlemen who compose the opposition to this resolution, on a former occasion, did not think it valid. I refer to the first resolution attached to the report of the Committee of Foreign Relations at the last session. That resolution was contended to be a self-evident proposition, and one on which it was not necessary to legislate; and yet those members who then urged its passage, and demonstrated its propriety to my conviction, as an individual out of doors, and unquestionably with success to the then House, are now opposed to the adoption of this resolution because it is a self-evident proposition. That resolution was as follows: "That the 'United States cannot, without a sacrifice of their 'rights, honor, and independence, submit to the 'late edicts of Great Britain and France.'" One would suppose, sir, that if it was necessary to express an opinion upon a subject of the nature contained in the resolution I have just read, which it would have been madness in any citizen of the United States to have doubted, that it would never be considered a good reason for rejecting this resolution, because there is an unanimous opinion in favor of it. But if it be true, as the honorable mover has mentioned, and I have no reason to doubt his word, I put implicit confidence in what he stated, as I should hold myself bound to do in any member who rose and stated a matter in his place—if it be true that there are persons who do not approbate the conduct of the President for acts which he has done, for the promptitude with which he met the conciliatory disposition of Great Britain, it becomes doubly proper to express the sentiments of this House in relation to this subject. If further proof were necessary that such a difference of opinion does exist, that proof can be found in the public prints. Already is the poison attempted to be infused into the public mind; already is the rankling suspicion spread abroad, and the Administration arraigned, directly or indirectly, and that too in prints possessing great control over the people of this country. If I can show that there is an attempt to infuse an improper sentiment in the minds of the people, and that the matter of the proposition before the House be correct, it becomes

the House to give their weight and sanction to this proceeding. The publications to which Mr. R. said he alluded, was one in the *Aurora* of the 25th of the month, purporting to be copied from the Trenton *True American*, and another in the Baltimore *Whig*, which he quoted from those papers. I repeat, said Mr. R., that if it be not a reason for rejecting a resolution that every one agrees in the truth of the matter it contains, there is strong reason for adopting it when it has become necessary to counteract the course of abuse which has been commenced. Therefore, I shall not trouble the House any further with this objection, but proceed to what I consider the next objection, made, I think, by my colleague from Pennsylvania, (Mr. FINDLEY.) It was this: that there is no precedent for it; that it was improper to introduce a new precedent, and that it necessarily tended to produce irritation at the outset of the session.

Mr. FINDLEY said that he had stated that the usual course of replying to the President's speech had heretofore produced irritation at the commencement of the session.

Mr. ROSS.—I have been accustomed to think and act for myself. I should not adopt an opinion merely because it proceeds from the most respectable authority. I always should, however, distrust my own judgment and opinion till I had thoroughly weighed the objections from respectable authority. The age, experience, and integrity of my colleague, entitle his opinion to great weight; and therefore I would not adopt an opinion different from that drawn from his experience until I considered it well. I may perhaps entertain some heretical opinions on the score of politics. Be it so; they must remain my opinions, until I am satisfied that they are wrong. It never has appeared to me, sir, that the mode of communication adopted by the President for the last eight years was a more democratic mode than that adopted the preceding sessions. I never could bring my mind to believe that he who waited on you with information acted with less respect or equality than he who sent his message by a footman or a lackey. I am not ready myself to reject a procedure which is democratical because the King of England acts in the same manner. I should not reject the use of the knife or fork because an emperor or king also makes use of them. We ought not to be hurried into the adoption or rejection of measures by mere names, but should examine on what principle they hang. As to the tendency that this may have to produce irritation at the commencement of a session, or to make a waste of time, let us see if that irritation at the beginning of a session is not better calculated to do good than evil; more particularly so at the commencement of a session immediately after the election of a new Congress. During the heat of electioneering contests and strifes, the minds of the wisest and best statesmen become irritated and their tempers destroyed, perhaps, by slander and abuse, and the heat accumulated in such conflicts wants an opportunity of exploding; after which, we could go to busi-

H. OF R.

Vote of Approval.

MAY, 1809.

ness with coolness. My idea is, that it is best to let it evaporate at the commencement of a session, and we could then come to business coolly and deliberately. What is the mode adopted by the professed horse racer? (And in this simile I mean no disrespect to the House. We know that the best poets, Homer and others, have compared their heroes to steeds.) In order that horses should keep up their mettle, they are always held in, the first heat—for what? That they may have fire and spirit through the whole course. Thus the effect of refusing the members from different quarters of the Union an opportunity to vent whatever disagreeable sensations they have on their minds, is only treasuring it up to leak out on all occasions to disturb the tranquillity of the House. Therefore, I conclude, with all due respect to my colleague, that, as it respects the evil which he supposes to result from the irritation produced by an early debate, the very reverse is the correct state of the case.

The honorable gentleman who moved this resolution has shown to the House, on the different occasions on which he has addressed you on this subject, that this is not a novel proposition. He has produced precedents from the first Administration of the present Government; cases of a similar nature from the second, and from the third, also; that which is looked up to as the test of political truth by the party to which I have the honor to belong. But it may be said, in reply to this, that these Administrations are politically dead. That which was conducted by the immortal WASHINGTON is politically dead; and, alas for his country, he himself is no more! And it may be said that the preceding Administrations are politically dead, and do not furnish an example for the living. Have we on this occasion any reason to appeal to the dead for the correctness of our procedure, or may not precedents of our procedure be drawn from the living? Have they not been brought forward by men high in the Republican party, and in the most democratic States in the Union; in States, to question the democracy of which, would be heresy indeed? I refer to the late resolutions and address of the Pennsylvania Legislature. If it would be pleasing or gratifying, and it appears so to have been considered by the late President of the United States, for a Legislature of a State to come forward approving the measures of last year, can it be less agreeable to the present President to have the approbation of the Representatives of the people expressed in this House? Surely not; and to me this precedent appears conclusive. Lest it should be said that this case is from a middle State, not possessing the true principles of democracy, I refer to another precedent in the case of certain resolutions of the State of North Carolina, presented to Congress at the last session. Other resolutions, approving the conduct of this House and the measures of Government, may be produced from other States. Will it be said that these States have anything in their respective constitutions directing this to be done? No, sir; it was the spontaneous and voluntary expression

of the confidence of those States in the measures of the General Government. I shall therefore conclude, as far as precedent goes on this subject, that it is in favor of the resolution on the table, and that there is no reason for rejecting it as a novelty. In relation to answering addresses, have those sessions which succeeded the omission to answer addresses been less tedious or more dispassionate than the sessions which preceded them? If not, I shall conclude that there is no evidence before this House from experience that the omission to answer addresses has been productive of any good consequences.

The third objection made to the adoption of the resolution before the House is, that it may have an improper influence on the mind of the President. May not the denial to do it have an improper influence on his mind? Shall cold, chilling silence, be the only salutation on the great change which has taken place in our political affairs? One of the strongest incentives to do well is, that he who so does shall receive the plaudits of his fellow-citizens. Say, then, that you will not give praise where it is due, and you take away one of the strongest motives to induce a man to deserve well. We well know that every man is frail, and it may not, on all occasions, be a sufficient satisfaction to him that his own conscience approbates him, but he may look, and justly and honorably look, for the approbation of the nation.

The fourth objection is, that the House of Representatives have no authority to pass the resolution; that there is nothing in the law or Constitution of the country which can justify its adoption. Let me ask, sir, what there is in the law or the Constitution which authorized the House to adopt an abstract resolution during the last session, which was reported by the Committee of Foreign Relations? Nothing is so easy as for ingenuity to raise objections to any principle, however correct, if it be desirable to get rid of a motion. Sir, let us see whether we have scrutinized resolutions on all occasions with this critical eye; whether my friend from Pennsylvania has on all occasions observed this nicety with regard to the powers of this House. I apprehend not. Have not the House, at this session, chosen a Chaplain, and put their hands in the public purse for his compensation? And is there anything in the law or Constitution which authorizes it? If there be, I am ignorant of it: and yet we are told that this House can only speak by law. Was there any scrutiny as to the Constitutional powers of the House when that motion was adopted? Is it absolutely necessary to the due performance of the functions of this House that a Chaplain should be elected? I do hold that it is not necessary. I see nothing to prevent the daily proceedings of this House going on as well precisely, and with as much promptitude, as at present, if we were to omit to choose a Chaplain. Here, then, is evidence that this House has not always looked to the Constitution for the ground on which it acts. Is this all, sir? Where is the law which says that each member shall be

MAY, 1809.

Vote of Approbation.

H. OF R.

furnished with three papers during the session? There may be such a law, but I know not of it. And yet, sir, on that question, which also puts your hand into the Treasury, none of these nice susceptibilities as respects the Constitutional right and power of the House were displayed. These examples bring strong corroborating proof to my mind that there is some secret objection to the adoption of the resolution.

It is said, sir, that men generally have two motives; one which they keep to themselves, and which is the motive of action; and the other which they avow, but which is not the motive of action. Far be it from me to attribute these motives to gentlemen; yet I cannot see through the mystery why this resolution is objected to. It is involved in such impenetrable darkness that I cannot see the reasons of those who approbate the conduct of the President, for opposing this resolution going to express that approbation.

The fifth objection is, that it is constituting this House a council of censors to approve or disapprove the measures of the President. The mover of this resolution, when he first addressed the House, showed the use of such a discussion as this in such strong and energetic terms, that it appears to me to be useless to say anything further on the occasion. If anything need be said, it might be asked, has the gentleman shown to the House that the censure of the people expressed by their Representatives, would be injurious? Before he can assume this position, he must have shown to the House that the expression of disapprobation would be improper. If it be not improper, the whole fabric which he has raised on that supposition tumbles to the ground.

The sixth and last objection is to me a very unpleasant one, and I wish on that account the present discussion had been omitted. But seeing that it has been commenced, and that a latitude has been taken in debate, I trust that I shall never be found to shrink from any question propounded to me. It is said that the proposition is calculated to reflect on the proceedings of the last Administration. If that was the object of the honorable mover of the resolution, I think clearly that he will fail; that he has certainly missed his aim. Unquestionably, so far from reflecting on the last Administration by this, it goes the full length of approving it. We have heard, from what has been said, that there appears to be three distinct opinions in the House. Some say that we should worship the rising sun; some that, if we do, we ought to worship the setting sun also; some that we should worship none at all. It is necessary to examine the three, and see the different bearings of the proposition now on the table. As to the first, then, and those who say that we should worship the rising sun alone—let us see how that principle stands. Here is a resolution approving in the strongest terms the promptitude and frankness with which the President has met the late overtures of the British Government. Is not approving his conduct approving all he said on the subject? And has not the President, in his late Message to the House, said substan-

tially the same as is contained in the amendment proposed by the gentleman from Massachusetts, (Mr. BACON?) The President of the United States, communicating the late overture, himself in the secrets of the Government, says that the Government has never intermitted similar dispositions. I say, then, if such a disposition did really exist, that those who suppose, when they adopt this resolution, that they do not approve the former Administration, are totally mistaken, or that I am mistaken. I only mean to give it as my idea, that the adoption of this proposition, taken with the communication which has produced it, does in the most conclusive manner say that, at no time, did the Administration omit a similar disposition. It was to my mind satisfactorily observed, that the withdrawal of the proclamation was not in the present instance made a preliminary to negotiation, and that formerly it had been, and that this is all the difference between the two cases. When this resolution was offered, I supposed, from the opposition made to it and from the quarter whence it proceeded, that it was intended to reflect on the late President. I am happy to hear that the gentleman who moved the resolution has declared on the floor of the House, that had it not been for the late President, we should have been involved in a war. He has taken away from my mind all objections to the adoption of the resolution. Whatever I had thought, when a gentleman rises and says that he considers himself as not pure enough to sit as a juror on the former Administration, and that had it not been for the late President we should have been involved in a war, it brings the question home, and enables me to say that it shall be adopted either with or without the amendment. I do not think it is right, sir, for gentlemen to appeal to the new members of the House to decide who was right and who was wrong respecting their conduct during the last Winter. I should, myself, have wished for one to have avoided the discussion. We have not a full view of the whole ground, and must consume much time to obtain it. On each side of the House the gauntlet has been thrown as to the propriety of the embargo. For myself, I was in favor of the embargo when first laid, and against it when it assumed a permanent aspect. I then thought it destructive in its effects. That it was destructive to the interests of the country in which I live, I have no doubt. For myself, I think it ought to be buried in oblivion by the democrats of this country. The day of the passage of the embargo, and the day of the passage of the enforcing embargo law, might be hailed as the days of resurrection of federalism in this country. For however proper the laws; however difficult for wisdom to have adopted a better measure, the appeal has been made to the people, and had it been pursued six months longer, there is scarcely a man on the floor who does not believe that it would have revolutionized the Government, and placed our opponents in power, whether correctly or not, I will not decide. I agree that whenever the people do decide, this Government emanating

H. OF R.

Vote of Approbation.

MAY, 1809.

from them, it is the duty of good Democrats to bend to their will. This I conceive they have done, and I hope that, on this occasion, those who are desirous of guarding, entrenching or shielding the embargo measures from censure, will not be found on this floor. Let it be buried in oblivion, where it has gone, unless our opponents disturb its ashes. It is not now a measure on which we are called upon to decide. It is not involved in the resolution on the table, and has been improperly lugged into the discussion. I should have said this, and no more, on the subject of the embargo, had not my former impressions been wrong. I had supposed, from the prodigious clamor which has gone through the country, that the late President of the United States was more disposed to make terms with France than with England. I am now satisfied, from what the gentleman from Virginia (Mr. RANDOLPH) has said, that I was mistaken; as I was, sir, when I inquired impatiently on my arrival in the city for the dry docks, and to my astonishment found that there was no dry dock! Having been mistaken in these points, I will not say that my other opinions are perfectly correct.

The gentleman from Kentucky (Mr. JOHNSON) observed to you yesterday, that the system pursued here had been approved on the floor of the House of Commons in England. I hope it will never be said that the conduct of the British or French Government has been approbated on the floor of Congress; and yet I am fearful that some Grenville, anxious for power, and opposed to the Administration of his country, will be found here. I presume that whatever the excluded Minister, Grenville, may have said, would have been said against any Administration to make his own way into power; and should be no guide for us, in support of that which the people have declared to be a pernicious system.

I hope, sir, that what I have said on this subject may be considered with candor. I have no disposition to press the House into my opinions, and I ask the same indulgence from others which I am disposed to give to them.

Mr. Fisk said it was with great sincerity that he now declared that he was glad that this unfinished business was taken up by the House at this time; and he should speak with equal sincerity were he to say that he should be glad that the House might finish it before they adjourned. Nor did he speak with less sincerity when he declared his reluctance to offer any remarks on the subject. Nothing but the extraordinary resolution and the still more extraordinary course the discussion had taken, should have induced him, young and inexperienced as he was in the business of the House, at this time to have trespassed on its patience. As an individual or private citizen, said Mr. F., I have no objection to the sentiments contained in that resolution as originally proposed, nor to the amendments suggested. I do not know that there is any difference of opinion on this subject; and I did regret to see a proposition introduced which might look like a distrust of the unanimity which I believe at this

time prevails in the nation. I, for one, have not heard any murmuring or complaints of the conduct of the President in meeting the overtures of the British Government, but yet I should be unwilling to give my vote as a Representative of the people upon this resolution or any other of like description. I consider it to be derogating from the dignity of a Representative of the people, to give my approbation to the President, or any other officer, however meritorious, when he has performed no works of supererogation, but merely a duty clearly defined by the express letter of the law; which, if he had not done, it might have called not for the voluntary, but for the Constitutional interposition of this House. And so long as this House is organized with the powers and duties which are vested in it by the Constitution, giving it the sole power of impeachment, I should think we ought to act with great caution in giving votes of approbation of an officer whose conduct in the execution of his office it may become our duty constitutionally to inquire into. I could, therefore, have satisfied myself with giving a silent vote on postponing it, which I was willing to do, not only indefinitely, but I was content that the time of its postponement should be co-extensive with the existence of our free Government. I was unwilling, for one, to be converting this splendid hall of Legislative deliberation, into a temple for offering up adulation to the Executive shrine. I was willing for another consideration to postpone the consideration, viz: to save the time of the House and of the nation; for, whatever idea some gentlemen may entertain with respect to the necessity of transacting all the ordinary business of the nation at this session, and whatever belief they may have that there is no Constitutional objection to it, I must beg leave to say that I entertain a very different opinion; and, looking into the Constitution for my guide, carries me back to the time when it was proposed, and to the Convention who did propose it. A great proportion of that body was, as the greatest proportion of Congress always has been and always will be, farmers. Certainly, when reasoning upon the time when it would be most expedient to convene Congress, they fixed upon a period more convenient to the agricultural interests of the country than any other; and at that time I think it would be proper still to meet. I believe, sir, that it was the general impression of the nation, not only when the law convening Congress was passed, but when the time of meeting had arrived, that their attention would be directed to those objects and those only which obviously and imperiously demanded their attention; and I hope that this House, equally with the President of the United States, will be "aware of the inconveniences attending a protracted session at this season of the year." And sorry am I to hear any one, especially one from the Southern parts of the United States, say that he shall go on to transact the ordinary business of the session; but not so much do I regret to hear this, as to hear him declare that he wishes to try the strength of the South and West against that

MAY, 1809.

Vote of Approbation.

H. OF R.

of the East and North. I am aware, and so must be every member of this House, of the out-of-door insinuations about the influence of different sections of the Union. I believe nothing of it; and I am sorry that so vile a calumny should receive the countenance of any member of the House. I never wish to see any measure brought forward which shall try the strength of the comparative parts of the Union. I should wish that geographical distinctions should be no more heard of, but that we should consider the interest of different sections of the country as the interest of the whole.

Another and a principal consideration with me for wishing to postpone the discussion of the question at this time was, that it would lead to the very (as I conceive it) improper examination or discussion of our foreign relations. This argument seemed to have considerable weight on the first day's discussion; but the gentleman from Virginia came forward afterwards to fortify his claim to the attention of the House by exhibiting precedents showing the conduct of former Administrations. Precedents are sometimes entitled to consideration and deserving of weight. They are of two kinds, one establishing a form of procedure, and the other a principle of action. To the former there is no objection, if it be not obviously improper; but to the latter we pay no attention, unless convinced that the principle is correct. What are the precedents on which the gentleman relies? Are they analogous or are they not? The first precedent, upon which the gentleman who introduced it with an air of triumph seemed to rely, was that of a vote of thanks and an expression of approbation of the conduct of the Father of his Country in one of his last though not least useful measures (the proclamation of neutrality) conducive to the interest and happiness, and perhaps to the preservation and salvation of his country. But what, let me ask this House to consider for a moment, was the situation of the country at the time that proclamation was issued? Was it not different from the present? Unfortunate, perhaps, was it for the citizens of this country, that, in 1793, they had not got rid of impressions, made during the Revolution, hostile to England and favorable to France. Whether justly or unjustly made, it is not now my purpose to inquire. Suffice it, that they did exist. There was a disposition in the country at that time to hail the French Revolution as the dawn of liberty to the European States. Scarcely could our people be restrained, and indeed they were not restrained, from celebrating it by festivals, songs, and toasts, to the success of the French patriots. About this time war commenced between England and France. It then became a question with the Administration, more than with the people, for their zeal for French success would perhaps, unless restrained, have hurried them to take a part with those whom they considered to be fighting the battles of liberty, and to whom they considered themselves under so many and so great obligations—it became a question what was the duty of this country towards

France. In this situation of things, the President, not directed how to act by the plain letter of statute, and doubting his power and his duty in this respect, convenes the Heads of Departments—and I believe I should not err were I to say that a diversity of opinion existed even there as to what course should be pursued; but the opinion and judgment of the President prevailed. His course was that of neutrality. A proclamation was issued. What was its effect? Did it meet universal approbation, as in the case of the present measure? Did the people give it their hearty and unequivocal consent? No, sir; there were murmurs—and even the conduct of WASHINGTON was questioned. In this situation of things, shortly after, Congress convened. The interest of the nation as it were, required the expression of the opinion of this House; and that measure they did not hesitate to take, and commended the Executive for the course which he took. Hence I conceive, sir, that there was no analogy between that case and the present. This authority is not sufficient to convince me that it is my duty to vote for this resolution.

The next precedent adduced was the expression of the opinion which this House entertained in relation to another subject, viz: the obstruction of the navigation of the river Mississippi. You, sir, with every other member, will recollect the sensation which was excited, not only among our Western brethren, but throughout the nation, on this occasion; that doubts were entertained whether our rights were invaded by an unauthorized act of a Spanish officer, or by an act of the Spanish Government itself. Doubts were also entertained as to what course should be pursued. In this state of the public mind, Congress found it necessary to give their opinion, and expressed not only confidence in the wisdom of the Executive, but declared that they believed the act to have been unauthorized on the part of Spain. This expression of the sense of the House seemed at this time really to be demanded by the situation of the nation. Is this the case with the question now before us? I cannot see it in that light. This precedent, therefore, with the other, is not sufficient to convince me of the propriety of voting for this resolution and amendment, or even of discussing it. But it seems, sir, with the rules of this House, and the common law practice in it, there is something which compels us to go into this discussion. *Nolens volens* we must be driven into it; *fas aut nefas*, it must be discussed.

What objection is made to indefinite postponement? The gentleman does not object to his own resolution, but objects to the amendment. Now, sir, if there be any propriety in any part of the business, I conceive the amendment necessary to define the meaning, and convey more distinctly the sense of the original resolution. For, with all the little powers of discrimination which I possess, I have not been able to make a distinction between the system pursued by the present and late President in relation to this particular subject. And speaking, as I shall, on the three ob-

H. of R.

Vote of Approval.

MAR., 1809.

jections made to the amendment, I shall not be guided by any impressions made on me from having participated in the discussion of last Winter. I shall speak from impressions made on my mind in common with the people of the district which I have the honor to represent, and, I believe I might say, upon the minds of the majority of the people of the United States. The gentleman who introduced this resolution has told us that he could not vote for the amendment, because he cannot consent to attach the healthy body of the present Administration to the lifeless corpse of the late Administration; that we should not bring it up to view; that its evil deeds should be buried with it, and its good deeds alone be inscribed on its monument. If, sir, its monument is to be inscribed, and the sentiments of the gentleman from Virginia prevail, I would say, as was said on another occasion—let not the monument be inscribed until other days and other men can do justice to its merits. Another comparison the gentleman made: He said he was willing to vote for the original resolution, and opposed to the amendment, the introduction of which, he said, reminded him of a certain description of persons in Virginia, who, when they had a pair of horses, one bad and the other good, praised the poor animal in proportion to its deficiency. The gentleman told us, too, the other day, among many instructions which he gave us, and the young members particularly, whom he called youthful sprites, that we might object to the proposition, because a precedent for it was derived from Federal times. Sir, I never have, and hope I never shall object to anything merely on account of its name. The gentleman told us, too, that the error in reasoning did not lie in the inferences so much as in the premises. Apply this remark to the present case: If, sir, the present Administration be the good horse, and needs no commendation, why introduce this resolution of approbation? I am not capable of understanding this, sir.

This resolution met an objection on account of its being an abstract proposition, and, as such, not deserving the attention of this House in a legislative capacity. The answer given was, that it was a common practice of the House, at the close of every session, to thank the Speaker. This practice is but a mere expression of courtesy, confined to the officers of this House, and not extended to the other departments of the Government, and there can be no impropriety in this. But, if it be considered as a precedent, what will be the effect of it? It has been so long established, not only in this body, but in different States, as a matter of course, that the omission of it would be considered, at least, as a censure on the individual filling the Chair. And are we, at the commencement of this session, about to establish this precedent, to be venerated as such at each subsequent session? Are we to establish that it shall hereafter be considered a matter of course, when we come to the Capitol, to make our bow to the President, and express our approbation of his conduct, or have our silence construed into a mark of disapprobation? Surely not, sir. So

much for this argument, urged in favor of the resolution, but which convinces me of the impropriety of adopting it.

The gentleman from Virginia (Mr. RANDOLPH) requested that when any member rose to answer his argument, they should state it and meet it fairly. I am not gifted with any extraordinary powers of recollection, but, if my memory will serve me, I will endeavor to take up the gauntlet as respects two arguments advanced by the gentleman to show his aversion to the amendment; and, one of them, though not novel, is rather extraordinary; that the embargo, that measure which he considers so ruinous to his country, was laid at a time when the British Orders in Council were not known in this country; he afterward narrowed his assertion by saying that they might have been known in New York, but were not known here. As at that time I had not the honor of a seat in this House, I cannot declare what was known here. But this I can say, that twelve or fifteen days before the embargo was known, it was known in New York that it was the intention of the British Government to issue these orders; that they were agreed to on the 11th of November, and would be published on the 14th. But the gentleman says that, even if they were known, they were not officially known. What information does the gentleman require to authorize him to act? Official information regulates but a small proportion of the acts of this body. The Constitution has made it the duty of the President to lay before Congress such information as he may possess in relation to the affairs of the nation. In ordinary times, he calls the attention of Congress to the interest of the nation generally; and from the information which they bring with them do they generally act. Yet this information is not official. But, what idea are we to attach to this House to suppose that, on important occasions, they will not act without it? I would suppose a case: A messenger runs in and tells you that the north wing of this building is on fire. Would you wait for official information of the event from the President before you seek for safety? Of this fact, of the intention of the British Government, there was sufficient evidence, short of positive proof, not only to the Executive, but to this House. In the Message of the President of the United States, accompanying the documents called the correspondence between Mr. Armstrong and Mr. Champagny, we find this passage:

"The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened on the high seas and elsewhere from the belligerent Powers," &c.

What belligerent Powers? Who were the belligerents (more than one, observe) to whom the President in this language referred? Can it be said that he meant France and Spain, or did he not mean France and England? Take this, with another fact, that it was known as early as the correspondence between Mr. Armstrong and Mr. Champagny was received, that it was the intention of the French Government, (about one

MAY, 1809.

Vote of Approbation.

H. OF R.

year after the date of the Berlin decree,) to extend it to American vessels.

This first information was a fact from which another fact was to be inferred. The Orders in Council (issued seven days after the treaty was signed) contained a practical exposition by the British Government of the Berlin decree, and a declaration that if its operation was extended to neutrals, Great Britain would, for self-preservation, retaliate those decrees, unless neutral Powers would resist. No doubt could remain with the American Government on comparing the information from Mr. Armstrong with the proclamation, of the intention to issue such orders. But, if this be not sufficient to establish the fact that these orders were known to the Government, it is the fact that they were known at New York long before the embargo; and as only three days are required for the passage of the mail from New York to this place, it is fair to presume that it was not only known to the Government, but to every gentleman of observation at this place, what the course was which the British Government intended to pursue. I find that the information was published in a New York paper of the 13th of December. In the evidence given at the bar of the House of Commons, Mr. Martin says that, on the 12th of November, he wrote a circular to his American correspondents, that such was the intention of the British Government, and that Orders in Council to such effect would be issued, and, on the 14th November, published in the gazette; and he produced a New York paper at the bar of the House, of the 13th December, containing the extract from his letter. This shows that the purport of these orders was published in New York on the 13th December. But this is immaterial. I should suppose that the objection, if founded in fact, would be of very inconsiderable weight if this was a good measure, because it was found afterward that the orders did exist and would have gone into operation had not the embargo been passed, had our vessels been permitted to prosecute their rights on the high seas. Certainly, to my mind, it is quite immaterial whether it was "a lucky hit or the dictate of wisdom." But the gentleman from Virginia says that the embargo has been a measure calculated only to work the ruin of this country; that its operation has been confined to America; that its pernicious effects have been felt here and here only. This, sir, is very different language from that which has been held on the floor of the British House of Commons and of the House of Lords, by statesmen of the first respectability in that country; and I should suppose that a citizen of the British nation, feeling an interest in its prosperity, would, at least, be as capable of judging of the effects of such a measure, as a citizen of this country, remaining here, while its effects were operating there. I will beg leave, for a moment, to call the attention of the House to what Lord Grenville says on this measure, and he incidentally mentions another fact, which had been contradicted in this country and even in this House. [Mr. F. here quoted parts of Lord Gren-

ville's speech, published in No. 1,338 of the *National Intelligencer*.] He states that he views the embargo to have been alarming in its effects; he states it in his place in the British House of Lords. It will not, after this, be contended, I presume, even by those who say that the measure was ruinous to this country, that it was not injurious to Great Britain, who was really the aggressor upon the indisputable rights of this country. The embargo, however, was a measure which the honorable mover of the resolution had the honor to oppose. He was for giving up this system of restriction; it was the same system which had been commenced in 1805 '6, which he considers one of the most disastrous periods, and the most disastrous system which the country ever witnessed or realized; and, since the system received his zealous opposition throughout, is he, therefore, desirous now to depreciate its effects, as ruinous to this country? He was opposed to the non-importation act, passed in 1806? Why was this act passed? This country found itself bound to do something for the protection of commerce. What was the state to which this country was reduced? New principles, it was said, had been interpolated in the laws of nations; the Admiralty Courts had made such decisions as to authorize the capture of every neutral vessel on the high seas; first, by deciding that touching at neutral ports did not legalize the voyage, but that it ought to be considered as a direct voyage from the hostile colony to Europe. Upon this construction, the *Mercury*, with a cargo of sugars from the Havana, having touched at Charleston, and bound to Europe, was condemned in 1802. Under this decision, unexpected as it was novel, much of our merchants' property was captured and condemned.

Next, the British Admiralty Courts held it requisite to show that the cargo had been landed in the neutral port, and the duties on importation paid, and also that the first insurance had been made for a voyage to terminate in the neutral country. Then it was held, as in the case of the *Essex*, condemned in May, 1805, that the duties on importation should be actually paid in the neutral country; that to secure them by bond, and subject to a drawback on exportation, was not sufficient. These extraordinary decisions surprised many of your merchants, and subjected much more of their property to capture and condemnation. It was invading their rights from a quarter least expected, and in a manner they were utterly unprepared to meet. Under these various unfounded constructions of maritime law, your merchants were extremely embarrassed—and what was their language upon the occasion? This House was filled with memorials and remonstrances, of merchants and others, from one end of the country to the other, protesting, in the bold language of free and independent men, against these aggressions. Congress found it necessary to have recourse to some measure which would, by affecting the interest of the aggressor, be likely to prevent future outrages of this kind. This non-importation act was, with this view, pass-

H. OF R.

Vote of Approbation.

MAY, 1809

ed. Although it had more advocates than opponents, there were opponents to it, and the gentleman was one of them. He would not fight for the merchants, he would not contend with the Periwinkles of the Strand, I think, was his expression then. It was also said, that the British Government was that of a high-spirited nation, and would never treat with you while this "rod" was held over her head. She did treat, or rather, she did condescend to treat, (to use language more consonant to the ideas of the opponents of these measures,) notwithstanding this prediction. The treaty of Mr. Monroe was formed during the existence, I will not say operation, of this measure. It was continued. What said our Ministers? And the gentleman from Virginia will consider their declaration, at least that of one of them, as good testimony. Messrs. Monroe and Pinkney said, and the British Government did not appear to view it differently, (in speaking of the non-impotration act:)

"The ground which Congress have taken in this just and salutary measure, we are far from wishing to abandon; but to suspend and abandon are very different things. The last would wound deeply the honor of the nation, and prostrate the character of the Government; but the first is in perfect conformity with the spirit and purpose of the law, and, while it would furnish a signal proof of the equity and moderation of our public councils, would preserve unimpaired that firm and dignified attitude which it becomes us at all times, but now more especially, to maintain."

But there is one other argument, or, perhaps, sir, I may more properly call it a remark, made by the gentleman in debate, one day last week, to show his reasons for the aversion he feels to the late Administration, and I was sorry to hear it. It was this: that if our Government had accepted that treaty in 1806, we should have avoided all the evils we suffered under the embargo. I was sorry to hear this, but more so, to hear the declaration which followed; and I do not believe the gentleman himself could, on reflection, entertain the opinion, "that the Government would never get a better treaty." Are these declarations discreet, and becoming an American, and intended to have a beneficial effect on that nation in the contemplated negotiation? Will the declaration that we cannot obtain a better treaty answer any valuable purpose; that we cannot get a better treaty than that which, in fact, was no treaty at all, because it contained provision for violating it, if the British Government saw fit—a salvo repugnant to the feelings of every American; and the principal subject of dispute, the impressment of our seamen, a subject of great interest and anxiety, was wholly omitted? What reason has this nation to believe that a better treaty will not be concluded? We shall have a better treaty, sir. I am warranted in saying that such will be the result. I will not question the sincerity of either Government on this occasion, because I believe it to be the interest of both to form a treaty that will be acceptable to each. I am authorized to say, from the correspondence between Mr. Erskine and Mr. Smith, that we shall have a treaty

which will be satisfactory and different from that of 1806; and what authority have I for this? It is said by the British Minister that His Majesty will send a Minister, not to treat but "to conclude a treaty" on all the points of the relations between the two countries. This is sufficient to justify me in saying that all the points in difference or at issue between the two countries will be settled.

But there was one other remark, and the gentleman urged it as though he was really serious. Although among the last he made, it was not the least extraordinary. I had heard it made before I came to this House, but thought it was intended merely to answer electioneering purposes, and not believed by those who made it. It was to this effect: that the present prospect, so fair, was the result of the exertions of the minority in this country, and particularly in Congress. I never did believe that gentlemen who claimed this as due to the exertions of the minority were or could be serious; and, when I heard it thrown out, on this floor since, it could not but remind me of the fly, placed on the chariot wheel, exclaiming "Lo, what a dust we flies make!" It is really surprising to me, and I am willing to confess it, to those (and there are many,) who have more experience in legislation than I have, how a minority can control the majority. It is the first time that ever I heard a minority in a representative Government claim the merit of a system which that minority, call them Federalists, "*ultra* or *citra*," "Federalists," protesters, or what not, opposed, to the extent of their ability. It is repugnant to the very meaning of the term "minority" in the English language. For a moment, let me ask you, sir, what system did they advise? Even the last measure, adopted on the subject of our foreign relations, viz: the non-intercourse law, was opposed by them; and, really, among the comparisons with which the gentleman from Virginia enlightens the members of this House, I recollect one in relation to that bill, in which he said that it reminded him of the man who had invented a mode of "letting off his gun, by degrees." He not only disapproved of the measure but ridiculed it. Who adopted the measure, sir? Who, had it proved disastrous, would have been called to account for it? The minority? No, sir; the majority. In all popular governments and assemblies, there will be minorities. There were minorities in our Revolution; but, after our independence was achieved, we did not hear them claim the honor of it. There was a minority in the Convention which framed the Constitution of the United States; but we have not heard this minority say that it was owing to their exertions that this charter of our liberties was adopted. Really, sir, as it strikes my mind, an argument of this kind scarcely merits an attempt at serious refutation. Let me ask, sir, did the minority elect Mr. Jefferson? Did they or the protesters elect Mr. Madison? The gentleman said, I recollect, that he does not consider the President as the Administration? Do the minority constitute it, then? With whom are treaties formed? with

JUNE, 1809.

Vote of Approbation.

H. OF R.

the Administration or with individuals? It really appears to me that the gentleman cannot urge this claim again; and I should not have made these remarks, if it had not been one of the most extraordinary assertions which I ever recollect to have been made on the floor of this House.

Another reason assigned by the gentleman for his opposition was, that the present state of things was owing to a change of measures. And, quoting one of Moliere's best comedies, "*nous avons changeé tout cela*,"—[Mr. RANDOLPH said, that the gentleman's French was neither his French nor Moliere's French.] What I understood the gentleman to mean, said Mr. F., was, "we have changed all that." Now, sir, were he to say that they (the British Government) have changed the state of things, I should not object to it, be it whose French it may. And as an evidence that there was no change of disposition on our part, I refer to the Message of the President, if his opinion be deserving of any weight in the estimation of the gentleman from Virginia. He says, that "he cannot do less than refer to the proposal heretofore made on the part of the United States, embracing a like restoration of the suspended commerce, as a proof of the spirit of accommodation which has at no time been intermitted, and to the result which now calls for our congratulations as corroborating the principles by which the public councils have been guided during a period of the most trying embarrassments."

Lord Grenville, in corroboration, acknowledges that the same offer was made in August last. But, says the gentleman, the state of things is not now the same as when that offer was made, and Great Britain has better terms. I will not attempt to examine, at length, the propriety of the gentleman's reasoning—but, if she has better terms, is it owing to us? Is it because the aggressions of France required us to place that nation on the same footing with Great Britain in relation to us, or that we have changed to accommodate England? At the time the embargo was laid, French depredations had not gone to that length to which they afterward extended; at that time she had not burnt our ships or imprisoned our citizens, as she afterward did. And, shall it be stated as matter of complaint against us, that we found it necessary to adopt this measure with respect to France, and place her on an equal footing with Great Britain—and that Great Britain, in consequence of this, altered her system toward us? Shall it be said that we placed her on a better footing, and that the change in our relations is attributable to a change of sentiment in this Government? This argument is not correct. If she stands on a better footing now, it is not owing to a change which we have made, but to a change in the French system, and an alteration in her own; and shall we not resist the French Government, because, if Great Britain should see fit to accept the terms she has once refused, it would place her in a better situation? Yet this seems to be the principal reason assigned for opposing the resolution as amended. This argument of

the gentlemen, then, does not operate with sufficient force to induce me to reject the proposed amendment, or to adopt his motion.

Although, sir, I am opposed to voting on this resolution in any other manner than for indefinite postponement, it is not from any objection to the conduct of the present or last Administration. I do believe that passing the resolution would establish a precedent which would be productive of the most injurious consequences; and I think that we ought to look with a single eye to our Constitutional duties, and, as seldom as possible, to go out of the plain path pointed out by the Constitution. And for these considerations I am opposed to it. I believe it a measure altogether unnecessary in the present situation of the nation, not required by our political relations at home or abroad, and out of the line of our duty as legislators; and, unless compelled by necessity, I will not vote on this or any similar resolution in any other manner than that it shall be indefinitely postponed.

THURSDAY, June 1.

A motion was made by Mr. RHEA, of Tennessee, that the House do come to the following resolution:

Resolved, That the Committee of Public Lands do inquire into the expediency of laying off and describing, by certain metes and bounds, a tract of country to which the Indian title is extinguished, within the limits of the Territory of Orleans, and to include all the settlements within the said Territory, and of having the said tract of country laid off into townships and sections, half and quarter sections, agreeably to the several laws heretofore made for surveying the public lands of the United States, and also to inquire into the expediency of granting one quarter of a section to every free male white person who now resides thereon, or who will, within — years, actually improve and reside thereon.

The resolution was read, and ordered to lie on the table.

Mr. QUINCY presented two memorials, one from the manufacturers of hats, in the Commonwealth of Massachusetts, the other from the journeymen hatters in Boston, to the same effect with sundry other memorials of hatters before stated.—Referred to the Committee of Commerce and Manufactures.

Mr. MORROW, from the Committee on the Public Lands, presented a bill authorizing the appointment of an agent for the Land Office at Kaskaskia, and allowing compensation to the commissioners and clerk; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. VAN HORN, moved that the House do come to the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of modifying or repealing the laws relative to drawback; and that they have leave to report by bill or otherwise:

And on the question that the House do now proceed to the consideration of the resolution, it was determined in the negative—58 to 42.

H. of R.

Domestic Manufactures.

JUNE, 1809.

On motion of Mr. RANDOLPH, the House proceeded to consider the resolution proposed by him on the thirtieth ultimo, in the words following, to wit:

Resolved, That provision ought to be made, by law, for taking the third census of the inhabitants of the United States:

And the question being taken that the House do agree to the same, it was resolved in the affirmative.

Ordered, That the said resolution be referred to Mr. RANDOLPH, Mr. DESHA, Mr. CRAWFORD, Mr. TRACY, and Mr. PICKMAN.

A motion was made by Mr. LEWIS, that the House do now proceed to the consideration of a resolution proposed by him on the thirty-first ultimo, relative to a removal of the Military Academy from West Point to the City of Washington. And the question being taken thereupon, it was determined in the negative.

Mr. SOUTHARD, moved that the House do come to the following resolution:

Resolved, That a committee be appointed to inquire into the propriety of passing a law to prescribe the mode of taking evidence in cases of contested elections for Members of the House of Representatives of the United States, and to compel the attendance of witnesses, and that the committee have leave to report by bill, or otherwise.

A motion was made by Mr. GARDENIER, to amend the said resolution by striking out the words "a committee be appointed," and to insert, in lieu thereof, the words, "the Committee of Elections be directed:" And the question being taken thereupon, it was determined in the negative. The question was then taken to agree to the original resolution, and resolved in the affirmative; and Mr. SOUTHARD, Mr. CLAY, Mr. McKEE, Mr. COBB, and Mr. STURGES, were appointed a committee, pursuant to the said resolution.

On motion of Mr. RANDOLPH, the House proceeded to consider the resolution proposed by him on the twenty-fifth ultimo, in the words following, to wit:

Resolved, That provision ought to be made by law to secure the right to an impartial jury in all cases, civil and criminal, maintained in the Courts of the United States:

And the question being taken that the House do agree to the same, it was resolved in the affirmative.

Ordered, That the said resolution be referred to Mr. RANDOLPH, Mr. WHEATON, Mr. SMILIE, Mr. BIBB, and Mr. RHEA of Tennessee.

DOMESTIC MANUFACTURES.

Mr. LYON said he felt himself called upon, by the resolution laid on the table yesterday by the gentleman from Massachusetts, to propose a resolution. He had not himself been in favor of encouraging manufactures by laying an embargo; but the House had done so, and he was not for deserting them all at once. The enumeration of articles mentioned in the following resolution might be defective, but he wished to try the principle:

Resolved, That for the protection of those who have commenced, and the encouragement of those who may be disposed to set on foot, manufactures within the United States of the articles hereafter enumerated, as well as for the encouragement of the cultivation of the productions necessary for such manufactures, provision ought forthwith to be made by law to subject to additional duties on their importation into the United States all articles of which leather is the material of chief value; hemp and cotton and all articles of which they or either of them are the material of chief value; woollen cloths whose invoice prices shall exceed six shillings sterling per square yard; woollen hosiery, window glass, silver and plated wares, paper of every description, nails, spikes and tacks, hats, clothing ready made, millinery of all kinds, beer, ale, and porter.

Mr. MILNOR observed that this resolution contemplated a duty on what was not at present and probably could not be manufactured in this country. He had no objection to Congress pursuing such measures as might judiciously encourage manufactures; but it was a subject which required serious consideration. He believed that among the manias to which the gentleman himself had alluded the other day, the mania for encouraging manufactures might also arise to a dangerous degree. The gentleman contemplated a duty on all cloths above six shillings sterling a square yard. Mr. M. said it was well known that in this country, although the coarser cloths were manufactured to a great extent in domestic circles, we could not get into the manufacture of fine cloths. There were not materials for it. He was happy to have seen a disposition to improve the breed of sheep; but at this time the country was not competent to the manufacture of these articles. If the gentleman from Kentucky was in possession of information which he might have obtained, Mr. M. said he would have known that the present price of wool in England, and the situation of their manufacturers, had raised the price of fine cloths so much as nearly to stop their importation into this country, without the impediment of a duty. He had no objection to seeing manufactures encouraged by a determination in gentlemen to wear domestic fabrics, even at a greater expense, in preference to any other; but he would not encourage them by law. Manufactures had already been commenced in the Eastern States before the embargo, and which, without any additional duties, had grown to a considerable extent. They were establishments in which a great number of hands were employed at low wages, the emoluments of the business going into the pockets of a few individuals, were already enriched by them; and the laying an additional duty would only throw so much money into the pockets of those individuals, who alone would benefit by it. Mr. M. stated the article of tacks to have risen in price during the embargo, and as being necessary to many manufactures; and taxing them, he said, would be in fact to tax the manufacturers, whom it was proposed to encourage. He approved of the plan proposed by Mr. BACON, for calling for a report from the Secretary of the Treasury on the subject; and moved that this

JUNE, 1809.

Domestic Manufactures.

H. OF R.

resolution be referred to the Committee of Commerce and Manufactures, to whom was referred so much of the President's Message as related to this subject.

Mr. NEWTON observed that the Committee of Commerce and Manufactures already had this subject under consideration, by order of the House.

Mr. LYON said he had no objection to the reference of this resolution to the committee as an instruction; for that was the course which he had designed to give to it. He said he was once himself a great manufacturer in iron, but had failed of success from the want of encouragement. Fine woollens, Mr. L. said, were not necessary in this country; there were coats in the House that cost less than six shillings the square yard; and he questioned whether that which he wore cost so much. In reply to Mr. MILNOR's observations about tacks, Mr. L. said that there was a manufactory of tacks in the capital of the State from which the gentleman was a representative, which made these articles much more expeditiously than they were ever made before, and much cheaper than they could be imported. From the merchants of the great cities objections had always been made to these duties, and always would be made, because they raised the price of goods, and consequently lessened the importation, and diminished their profits; and if Congress were to wait till they consented to this measure, it would never be done. But he could see no excuse for this House evading a vote on this subject, or for their neglecting to take some measures for the encouragement of manufactures.

Mr. MACON said he was opposed to referring this motion to the Committee of Commerce and Manufactures, excepting the House should think proper to refer it as an instruction, for he believed that the Committee would not report this session. In the country in which he lived, the people wanted no protecting duties to encourage domestic manufactures; the only way to encourage them was for our great people, for instance the President and Heads of Departments, to make them fashionable. Until domestic manufacture was thus encouraged, it would not thrive; laying a tax on foreign goods would but tax the many for the benefit of the few. He had no idea of laying taxes to induce men to work in iron, leather, or any other article. He wished not to refer this resolution, because he wished to meet the question. Let it be referred, and it would be claimed as the commencement of a system, and as an earnest of what was to be done. When the merchants of this country had too much capital to employ it in the commerce of the United States, they would either employ it in the improvement of the country, or convert it into manufactories; and until this was the case, men of capital would not employ it in manufactures. All that could be done in manufactures in this country, Mr. M. said, was already done in the domestic way. Before there is a surplus of capital, you cannot go to manufactures. Any attempt to do it before that time, would be like an attempt to raise vegetables in a hot-house. The people who were in

favor of the embargo, did not look upon it as the gentleman did, as an encouragement to manufacturing; they avowed the object which they had in view, and that was not the encouragement of manufactures. Of what advantage was it to the community to tax themselves to make the articles mentioned in the resolution? So long as there were so many other ways of making a living, people would not go into manufacturing houses. Whilst the present Constitution remained to the United States, Mr. M. said it was utterly impossible for the United States to become a manufacturing nation. The Government must be materially changed before it could succeed; laws must be passed to prevent workmen from conspiring to raise their wages; and all the laws on this subject in existence in England, would become necessary here. Since the tax had been laid on leather manufactures imported, the price of articles of leather had nearly doubled in this country, and the quality was not as good as before. Going into this system he feared would encourage smuggling—and what then would become of manufactures? They would be destroyed. Mr. M. concluded his observations by expressing his wish that a decision should now be made on the subject.

Mr. PICKMAN followed Mr. MACON on the same side of the question. He said he certainly was in favor of encouraging manufactures; but it ought to be recollected that there were other interests also, and they ought not to suffer their zeal for manufactures to injure the more important interests of agriculture or commerce. He considered agriculture as the greatest interest and the most honorable and useful employment, as the most favorable to health and congenial to happiness; and he feared an essential injury might be done to the country by converting agriculturists into manufacturers. We ought also to consider (said he) that we now hold out considerable encouragement to manufactures, for almost all the revenue of the United States is derived from imposts on foreign manufactures, the duties on which already average thirty per cent., and that is surely sufficient. Mr. P. said he was much alarmed when he found this motion predicated on the old non-importation act, which he considered the most absurd and impolitic measure that had ever been enacted. It had prohibited such goods as, if not necessities of life, habit and long usage had made necessary for comfort—and what was the consequence? The articles had risen to most enormous prices—and what resulted from this? The goods had been smuggled into the country, and instead of paying money to the Treasury, had been paying it to unprincipled smugglers. It was not perfectly true in political arithmetic that two and two make four; for by doubling the duty they would not double the revenue, but very probably much diminish it. He said he did believe that some manufactures deserved encouragement; but the House should proceed cautiously. The subject could not be discussed at this short session, and the very agitation of the question, by inducing men to establish

manufactures, in expectation of encouragement, might do great injury.

Mr. HOLLAND thought very differently from his colleague (Mr. MACON) on this subject. He thought manufactures ought to be encouraged, and that this nation would never be completely independent till they were fostered in preference to other systems. The gentleman had asked what good was to be derived from the establishment of manufactures? Mr. H. said he would answer him that it would place the Government in a state of independence of all the casualties of the ocean and of external commerce; we should not then be convulsed by the storms of Europe. We ought not, he said, to encourage foreign enterprise, when, with the same enterprise at home, we could be equally happy and less subject to disasters. From external commerce had arisen all our difficulties; from that source were derived all our navy and army bills. We should comparatively stand in need of no revenue if we were to turn our attention to the cultivation of our own resources. We were, he said, distant from the scenes of war, and nothing was necessary to make us happy but the encouragement of our own manufactures. It was unjust not to protect them, for we could not protect our commerce on the ocean, and ought to turn our eyes to the measures which would make us comfortable and happy; and this was one of them. With this nation, Mr. H. said, agriculture was the first, manufactures the second, and external commerce a minor consideration. The situation of Great Britain rendered external commerce absolutely necessary to her existence; but we were differently situated and could do without. Without her wooden walls, Great Britain would long before this time have become a province of the Continent. But was this the situation of America? No; we had our own resources, independent of the world, and ought to cultivate them.

Mr. LOVE made some remarks going to show that this was an important subject, but that the attention of the House had been prematurely and in an irregular manner called to it.

The question for reference to the Committee was lost, 56 to 49.

VOTE OF APPROBATION.

The House took up the unfinished business of yesterday (the resolution approving the conduct of the Executive.)

Mr. RHEA said he was gratified to perceive how desirous the gentleman who moved the resolution was to approve the President of the United States, for his late conduct respecting the relations of the United States with Great Britain. He was disposed as much as any gentleman to approve the conduct of the President in this case, and, with the mover of the resolution, manifest the confidence he had in the first officer of this nation; that although he might agree substantially with the gentleman who introduced the resolution, so far as related to approving the President; only, he did not agree with him in the manner. It did not appear to be his duty, as a

Representative of the sovereign people, to be employed offering the sacrifice of adulation in this manner; and more so, as it is said the President has only done his duty. It is urged that if the resolution be adopted, it will be a support to the President in his present conduct, and a guide for him in his future conduct. If this is anything, it is a reason that the resolution should not be adopted. The Executive of the United States is a distinct department of the Government, and in this case does not require a resolution of this nature for his support. The House of Representatives by the Constitution is not authorized to interfere with the treaty-making power; that power, vested in the President and Senate by the Constitution, is to be where it is unbiased, unprejudiced, and not in opinion foreclosed by any resolution or vote of this House. An attempt to influence that power in any manner virtually contemplated by this resolution, is derogatory to the dignity of this House, if adopted will be an encroachment on the treaty-making power, and eventually may be injurious to the best interests of this nation. Hence (he observed) it will appear that he was in favor of postponing the resolution.

The conduct of the late Administration and of the present did not to him appear different. The act for doing whereof the resolution is proposed, is an effect in consequence of the measures adopted in the time of the late Administration. The authority to issue the proclamation for renewal of commercial intercourse was given by the non-intercourse law, and that law was enacted in the time of the late President; if he had continued to be President, he, no doubt, would have acted in a similar manner; there is the more reason so to believe, because the propositions now offered by Great Britain are, so far as they go, the same which the late President insisted on. It might have been as well if the resolution had not been introduced; the discussion arising therefrom might as well not have been made necessary, because it leads to a recapitulation of things, the recollection whereof may not be attended with any good. Better and more conducive to the interest of this nation would it have been, to have adopted the sentiment so candidly and honorably expressed by the British Minister in his letter of the seventeenth of April last, in the beginning of the correspondence between him and the Secretary of State, and thereby at this time not have afforded cause to recapitulate any existing differences of any kind relative to the relations of the United States with Great Britain, and to have confided the discussion of all differences to the department authorized by the Constitution to act thereon.

In examining the merits of the resolution, it certainly is not necessary to inquire to what cause the partial old non-importation law, the proclamation of the President interdicting British armed ships and vessels from the ports, waters, and hospitality of the United States, the embargo laws, and non-intercourse law, are to be ascribed. No patriot citizen of the United States will assert, that all or any of the same laws and proclamation were or was the effect of, or originated from a

JUNE, 1809.

Vote of Approbation.

H. OF R.

cause or causes altogether intrinsic and limited within the United States, and entirely distinct from the conduct of foreign Powers. If there be any citizen who so thinks let him speak out. It is unpleasant to mention, but it is an indisputable fact, that long previous to the existence of the old non-importation law, the aggressions of Great Britain, by impressing citizen seamen, and by capturing and condemning the ships and property of citizens, by violating the neutral rights and sovereignty of the United States, had been frequent and many. The continued remonstrating of the American Minister against the same aggressions of the British Government had no effect; the impressed citizen seamen were not restored, the captured property was not indemnified for. These things being so, the partial non-importation law was enacted. That law was the first operative movement of the United States against the many aggressions of Great Britain. It was the only law acting exclusively against Great Britain at the time the unprovoked, outrageous attack on the unsuspecting frigate *Chesapeake* was made—that ship was not only in time of peace attacked, but obliged to strike the flag of the United States. A neutral nation has a right to exclude from its waters, ports, harbors, and hospitality, the armed ships and vessels of all the belligerent Powers. If the neutral Power, confiding in the honor of the belligerents, does not exercise that right, but permits the armed ships and vessels of all the belligerents to enter, it may do so. Previous to the time of the attack on the *Chesapeake* frigate, the waters, ports, harbors, and hospitality of the United States were open to the armed ships and vessels of Great Britain and France. They continued open to those of Great Britain, even after the murder of innocent *Pierce*, after the destruction of the French ship of war *Impetueux* within the jurisdiction of the United States, and until the attack on the *Chesapeake*. Then, and not till then, were the British armed ships and vessels excluded by the proclamation of the President. A similar proclamation was not extended to French armed ships or vessels; the reason was, that no innocent *Pierce* was murdered, no British ship of war was destroyed within the jurisdiction of the United States, no *Chesapeake* frigate was attacked, subdued, and robbed of her seamen, by any armed ship or vessel of France; and will any patriot citizen assert that the proclamation alluded to was a wanton, unprovoked effusion of power on the part of the President of the United States, or that it was without just cause? If there be one who says so, let him speak out plain.

It has conclusively been made to appear that the substance of the Orders in Council of the British Government was known in the United States, previous to the day that the law laying the embargo was enacted. It is scarcely necessary now to take any further notice of that subject. The undisputed fact is, that the same Orders in Council were actually issued on the day they were expected and believed to have issued. That they ought to have been officially known to the Gov-

ernment of the United States before the law laying the embargo was enacted, will not prove that that law ought not to have been enacted. The faculty of acquiring a knowledge of passing events, otherwise than officially, is with every civilized nation, and more particularly with the Government. If no embargo had been laid, and a number of the merchant vessels of the United States with their cargoes had been captured by the cruisers of Great Britain, and sent into port for adjudication, ignorance of the Orders in Council would not have been admitted an excuse to prevent condemnation. If no law laying an embargo had been enacted until the Orders in Council had been officially known, the commerce of the United States, widely spread on the ocean, would have become a prey to British capture; and in that case there would have been a loud criminalizing cry against the President of the United States, because he did not advise laying an embargo, although he did not officially know that the Orders in Council were issued, or about to be issued. In that case every proof and reason would have been adduced to make appear, that he not only knew what the substance of the Orders in Council was, but also that they actually were or would have been issued on the day appointed. Why then so much disputation in endeavoring to discriminate between official and unofficial knowledge? If the Chief Magistrate of a nation is informed in a manner he can confide in, it is sufficient; and if he do not act on that information he is blameable. The causes which induced the embargo are now well known to the people of the United States, and although that embargo was attended with many privations, it was and is approved by a great majority of the citizens. If the embargo had been rigidly adhered to, its merits as they are, would have been greater. It frequently happens, and it is to be lamented, that for certain reasons there may be a voluntary occlusion of light.

As parties exist in every nation, the measures of the Government will be approved and disapproved; hence it is, that there may be approbation and disapprobation of the late proclamation of the President, declaring the renewal of commercial intercourse with Great Britain; this is the less to be surprised at, because the non-intercourse law, which authorized the issuing that proclamation, was not well spoken of by many holding different political opinions in the United States. The patriot citizen whose bosom is warmed with the love of his country, approves the proclamation—he hails it as the harbinger of peace, and rejoices in the destinies of the nation he belongs to.

An opinion, that the President of the United States would by the adoption of this resolution be the more influenced to do his duty, and that the non-adoption of this resolution would prevent him from doing his duty, is unworthy of him, and not to be for a moment entertained. The President of the United States will perform his Constitutional duties; he has been elected for that purpose; and they who elected him have full and entire confidence in him that he will not omit

H. OF R.

Vote of Approbation.

JUNE, 1809.

anything which he may judge best for the happiness and prosperity of this nation, although the House of Representatives may not think fit to adopt this resolution. Whether the law called the non-intercourse law, has any merit, or was about to have, or would have had, any merit, considered merely in a commercial view and actually operating in fact on commerce in its relation to Great Britain, cannot now be ascertained, the British Government having, previous to the day on which commercial intercourse between the United States and Great Britain and its dependencies was by that law interdicted, offered proposals to the United States, for renewal of commerce so interdicted, and the proposals so offered have been received by the President, and his proclamation is issued accordingly. Some cause has operated inducing Great Britain to change her measures respecting the United States. Great Britain, by her Minister, has offered specified reparation for the attack on the Chesapeake frigate, if the United States would accept it. That Power, by her Minister, has stipulated and promised, that on a day certain the obnoxious Orders in Council, so far as respects the United States, will have been repealed, if the United States will renew commercial intercourse with her. So far has Great Britain returned to the practice of the principles of justice, which also are the principles of honor, towards the United States, desirous to remain neutral and at peace with all the world, and thereby has done honorably. For this conduct, so far exhibited, Great Britain (said Mr. RHEA) has, on behalf of my country and on behalf of suffering humanity, my sincere praise; but, not withstanding this, I am not prepared to vote for this resolution. Honorable reparation has been offered for the outrageous attack on the Chesapeake frigate, but the seamen, citizens of the United States, who in that unprovoked attack were murdered, cannot be restored to life. The officer, in consequence of whose orders that attack was made, has not been deservedly punished, but goes at large, stained with the blood of the citizens who were murdered in that attack; and if the late accounts be true, although he has been withdrawn from the American station, he is appointed to a very important command in the British navy. It is true, Great Britain has disavowed the act. So far it is well and honorable; but the disavowal of that act is a reason inducing the punishment of him who offended against the laws of nature, of nations, and of reason. The President of the United States deemed it proper to accept the so far made offers of Great Britain, and forbears to insist on the punishment of the offending officers; he nevertheless expresses his sensibility of the justice and utility of such an example, as due from his Britannic Majesty to his own honor; as is stated in the letter of the seventh of April last, from Mr. Smith, Secretary of State, to Mr. Erskine, the British Minister. The adoption of this resolution would, in a certain degree, oppose that sensibility and expression of the President. This is a reason why it ought not to be adopted.

The case between the United States and Great Britain, somehow or other, has been considered as if the United States were the aggressor, and had done wrong in opposing in any manner the conduct of the British Government towards them. That mode of considering the case is incorrect. The United States are not the aggressor in any instance. It is well known that in consequence of the orders of the British Government, some thousands of seamen, citizens of the United States, were impressed, and that property amounting in value to many millions of dollars, of the citizens of the United States, was captured by British armed ships and vessels, and condemned; that the citizens so impressed were reclaimed, and indemnification for the captured property demanded by the Ministers of the United States, and refused or delayed to be restored and indemnified for by the British Government. An amicable adjustment of all differences was earnestly insisted on, but could not be obtained. These things occurred previous to the enacting of the old partial non-importation law. That was the first law enacted by the United States, prohibiting the importation of British merchandise, and operating in a commercial view directly on Great Britain. Several violations of the sovereignty of the United States were perpetrated by British armed vessels prior to the attack on the Chesapeake; after that hostile attack, the President issued the proclamation of interdiction. Afterwards the British Government issued their Orders in Council, afterwards the law laying the embargo was enacted; and at the same session of Congress a law was enacted authorizing the President, on certain conditions, to suspend the embargo laws as they respected either Great Britain or France. The terms were proposed to Great Britain, and by that Power rejected. At the subsequent session of Congress, the so much talked about non-intercourse law was enacted. The consequences of these measures are now well known, and the prospects of peace and happiness to the United States are become more promising. In this view of the subject no aggression can be charged to the United States. The so long cherished unfounded idea of partiality to France is abandoned, and it is admitted that the United States have continued their impartial neutral position. All the measures of the United States adopted in their own defence were regularly opposed, as if Great Britain had a right to legislate for the United States. If the United States had adopted no measure in their own defence, colonization of commerce under Great Britain might have been the consequence; and if the opposition had prevailed, probably no defensive measure would have been adopted. But it has been said, and may be said again, that if the rejected treaty had been accepted and ratified, it would have saved us from all these difficulties. Would it, indeed? No; it would not. That treaty was an expression of permission only, and not of mutual equal reciprocity. It would, if ratified, have bound the United States in a species of commercial subjection to Great Britain. It is admitted that the note

JUNE, 1809.

Vote of Approbation.

H. OF R.

subjoined to that treaty would have put the United States into a state of difficulty with France; that is, if the United States had not joined in the war against France, Great Britain would not have considered that treaty obligatory—this of itself was sufficient reason to reject that treaty. It has been intimated that the United States are now in the same state, as to Great Britain and France, that that note would have placed them in. This proposition is not admitted to be correct. The obligation of the note followed the ratification of the treaty; the treaty would have bound the United States in a kind of commercial subjection to Great Britain, and the note would have placed the United States in a state of difficulty, that is, of war with France. That state of relations does not now exist. That treaty is not obligatory on the United States, they are not in a state of difficulty or war with France. Great Britain heretofore was endeavoring to impose unfriendly and hostile restrictions on the United States; that Power has now offered friendly and honorable propositions of accommodation, for renewal of commercial intercourse, and an amicable adjustment of all differences. The people of the United States know that Great Britain has made these friendly propositions—the people of the British empire will soon know the same, and that the Government of the United States has accepted them as the pledges of justice and honor. Great Britain is bound solemnly, in justice and honor, to go on until all differences with the United States are accommodated. Mr. R. observed, that he would not say that Great Britain, by making the same propositions, had descended from its dignity; nor would he admit that that Power had condescended, (because the United States are on a scale of equality with any nation on earth;) but he would say that Great Britain in offering the same propositions had ascended to dignity and honor—from injustice to justice—from political vice to political virtue; from a determination to disturb and injure a peaceable and neutral nation, to a determination to make honorable and just reparation for all injuries to that nation. But let not Great Britain retrace or turn back; the eye of the people of the United States is upon her; the eye of the people of the British empire is upon her—a recurrence to former hostile practices will be fatal. Let her progress on the principles of justice and honor until the work of reconciliation with the United States is completely and unequivocally finished, and then she will merit the grateful remembrance of every man, woman, and child, in the United States, and in the British empire.

What the cause was which induced Great Britain to adopt the friendly disposition to offer honorable specific reparation for the attack on the Chesapeake, and to revoke the Orders in Council so far as they respect the United States, and to propose friendly negotiation, is made a matter of inquiry. How unimportant soever that inquiry may be, the human mind, prone to investigate, will occupy itself with the subject. The disposition has been ascribed to the embargo, it has

been ascribed to the defeat in Spain, and it has been ascribed to the provisions of the non-intercourse law. To the provisions which that law was expected to embrace, the British Government, by its Ministers, in the late correspondence, appears to attribute that disposition. It is of no great importance to contend or to know whether the disposition alluded to proceeded from all or any of the same causes. It may reasonably be concluded that the old partial non-importation law, the proclamation of the President interdicting British armed vessels, the embargo laws, the defeat in Spain, and the expected provisions of the non-intercourse law severally had their influence in promoting that disposition.

Several objects may have influenced the British Government to carry on the war in Spain. The expulsion of the French from that extensive and fertile country, would have conduced to preserve the dominion of the ocean, and that monopoly of commerce—the obtaining whereof had employed the energies of that Government for centuries. The late disastrous defeat has, in a great degree, excluded the hope of success in that country. The non-intercourse law had not gone into operation, but, by the operation of the embargo laws, the British Government was by experience enabled to form an opinion of the effect which a perpetual continuance of the embargo system, as was expected to be provided by the non-intercourse system, would have had on the British empire. That Government had also experienced the effects of the partial old non-importation law, and of the proclamation of the President, and from all these by experience were enabled to understand what effects would have resulted from a complete and general interdiction of all the produce and merchandise, of all the ships and vessels, armed and unarmed, of the British empire, from the ports, waters, harbors, and hospitality of the United States, as intended by the provisions expected to be contained in the non-intercourse law. The consideration of the effects which an absolute non-intercourse system would have had on the British empire, certainly had influence in disposing that Power to make the offered propositions to the United States; that it had in some manner an influence, is manifested in the written communication of the British Minister to the Secretary of State, before alluded to. The examination of this subject, however, is not very important. The prospect of peace and happiness and prosperity to the United States is become more promising. The sound and noise of war as it respects them, it is to be hoped, will cease. They are far removed in the depths of the wilderness in the West, from the bloody fields of Europe, and have no business with the war of vengeance, which for years past has existed with unrelenting fury, and continues to exist in that quarter of the earth. The disposition of friendship lately manifested by Great Britain towards the United States may be ascribed to a fixed determination to return to the principles of justice, of public law, and reason, which are also the principles of honor. But there is a cause, said Mr. R.,

to whom truly and properly is to be attributed the change of the relations between the United States and Great Britain, namely, the Great First Cause, the Almighty Ruler of the Universe, who holds the destinies of nations, and manifests himself the protecting guardian of these United States.

It is intimated that all the British Minister has given for a change of our position is a revocation of the Orders in Council—old moth-eaten parchment, for reparation for the attack on the Chesapeake was previously offered; very well, let that be examined. When or what time was honorable reparation offered for the attack on the Chesapeake—previous to the offer honorably and candidly made by Mr. Erskine, the British Minister? The diplomatic proceedings on that subject do not evidence that any reparation was previously offered; let them be examined. No reparation was offered in Great Britain; and it is well known that the Envoy, Mr. Rose, although it was rumored that he came for that very purpose, offered no reparation, nor did he specify any; and not that only, but he refused to inform the Government of the United States what the intended to be offered reparation would be, except the Government did previously rescind the proclamation interdicting British armed vessels. The Government very justly and properly refused previously to rescind that proclamation; thereupon Mr. Rose refused to offer or specify any reparation, and so he returned to Great Britain, without having accomplished any known object. But the British Minister has given us nothing for a change of our position but a revocation of the Orders in Council, old moth-eaten parchment and of no benefit, the resolution under consideration ought not to be agreed to by this House.

The British Government constantly declared that the Orders in Council were issued to retaliate on France. Whatever the real objects of the Orders in Council were, it never was pretended that they were issued directly against the United States; that would have been a declaration rather too bold and explicit; the orders, however, had the same effect as if they had been so declared to have been issued. They are the long-intended, fatal, all-comprehending, everywhere-extending orders, by the operation whereof Great Britain designed to colonize and to make tributary all the commerce of all the world. The same Orders in Council, so far as they respect the United States, are to be rescinded. Mr. Erskine, the British Minister, on behalf of his Government, has offered and stipulated with the Government of the United States, that the same Orders in Council will have been rescinded on a certain day if the Government of the United States will renew commercial intercourse with Great Britain. That offer of the British Ministry is accepted, and a proclamation of the President to that effect issued accordingly, and Great Britain is bound to perform. This is more than

a destroying of old moth-eaten neglected parchment. The Orders in Council being revoked, the commerce of the United States will again float on the great highway of nations, untrammelled, unshackled, unfettered with the chains which were forged out for it, and contained in the so much deplored, rejected treaty, subject only to the laws of justice, honor, and public reason. The British Minister has no reason to put on sackcloth and ashes. He is the organ of his Government, and for what, by the directions of his Government he has done, he ought to put on the vestment of honor and the mantle of glory. Let him illumine his mind with the splendid rays of sunshine, satisfaction, and complacency, for he has broken down the wall of division which separated two great nations, and commenced the glorious work of reconciliation. He, making justice and honor the foundation, has begun to build an edifice, which, if his Government will authorize him to perfect, may endure until the pyramids of Egypt are mouldered in ruin, and Old Time himself render up his existence. War has been prevented, and it appears to have become a question, who prevented it? The investigation of this question, in this House, appears unnecessary. It is too much like children contending for, "who did it?" The citizens of the United States will, for themselves, investigate it. They will form correct opinions respecting it, and will for themselves determine the question, and duly appreciate the merits. At this time, when reconciliation is the order of the day, it might be as well to omit in this House every circumstance which may help to fan the flame of party and disunion. Party in the political world is like evil in the moral world—a destroyer of the peace and happiness of mankind. Let the chief study be, who shall do most good, and the liberty, sovereignty, and union of this nation, will be perpetual.

It does not appear necessary to adopt this resolution. It has not been made to appear that any good will flow from it. The citizens of the United States will testify their approbation of the conduct of the President, and when their Representatives return home let them also in their individual capacity, join their fellow-citizens in the general voice of approbation.

The resolution "that the promptitude and frankness with which the President of the United States has met the overtures of the Government of Great Britain towards a restoration of harmony and free commercial intercourse between the two nations, meets the approbation of this House," contains two propositions; the one express, the other implied. The express proposition approbates the conduct of the President of the United States; the implied one, approbates the conduct of Great Britain; for the conduct of the President cannot be approbated in this case without approbating the conduct of Great Britain, and in approbating the conduct of the President the conduct of Great Britain also is approbated. But the approbation intended by this resolution for the President is confined to the

JUNE, 1809.

Vote of Approbation.

H. OF R.

particular case—the approbation impliedly intended by the resolution for Great Britain is general. This is going further than may be proper at this time. If the President of the United States, in this particular case, be approbated, the late President of the United States ought also to be approbated; for this plain reason, that the measures adopted on the part of the United States, which could have had any influence in promoting a friendly disposition on the part of Great Britain, were all adopted during the Administration of the late President; and hence it follows that the objects of the late President have so far been carried into effect. In approbating the effect, the cause ought not to be kept out of view, or thrown in the back ground; it ought also to be approbated unless it can be made appear that an effect can be without a cause. The resolution is capable of an unfavorable construction; by the form of it, it may be concluded, that Great Britain heretofore has been in the constant habit of making the same overtures to the United States, and that they were not accepted by the President.* This is not admitted to be correct, and to show that it is not correct, there is no necessity again to repeat what already has been urged on this subject.

This resolution, if adopted by the House, will virtually have a tendency to invade the treaty-making power—a power which by the Constitution is exclusively confided to the President and Senate of the United States. It may become a dangerous engine in the hands of Great Britain, operating in favor of that Power, and against the best interests of the United States, in any negotiation that may hereafter be carried on for the purpose of making a commercial treaty between the United States and Great Britain. For these and other reasons, not necessary to be recapitulated, it may be most proper to postpone this resolution.

Mr. McKEE said, that after the lengthy discussion which had taken place on this subject, he did not rise to enter at large into an examination of it; but there were one or two remarks which he would offer to the House. The question, when first submitted to the House, had appeared to him to be one of no importance, to be one that could excite no interest, whether decided in the negative or affirmative; but by lying on the table for a day or two, it had increased in magnitude. Why so much importance was attached to it he could not see. I am, said he, opposed to the adoption of the resolution, and in favor of indefinite postponement, because I cannot see any good consequences which can possibly result from the adoption of it. I consider it more proper for the Legislature of the nation to apply its time and resources to objects of utility, than to descend to useless debate on a subject which can be of no importance. What is the object of the resolution? Is it to communicate information which shall regulate the conduct of the President of the United States in the detail of the negotiation, the basis of which is formed? If so, the President can obtain it from a proper source. Holding,

as the President of the United States certainly does, an extensive patronage, which is to be distributed to individuals who may meet his approbation, a suspicion must arise that the mover, or perhaps advocates of such a resolution as this, were candidates for the loaves and fishes. And does this House possess the information on our foreign relations which the President must possess? Or do we possess that knowledge of the sentiments of our constituents which would warrant us in voting for the motion, if it were expedient so to do? We do not, sir. I can speak for myself and the delegation from Kentucky, that we do not know the sense of the people on this subject, and our votes will be but individual votes, and not expressive of the will of the people. I see no good, and do see a possible mischief which may arise from the adoption of the motion. Why should expressions of joy be uttered? What great victory has been achieved? What great good has the Executive obtained? Is it anything more than an acknowledgment of our rights? I presume not; and our joy can only be similar to that which an individual feels when he has obtained from an unjust debtor his right. There is not cause for more of exultation, and the same course of conduct which produces an effect on individuals, will produce the same effect on nations. If joy be loudly proclaimed, may it not have a tendency to create difficulties in the detail of the negotiation? It certainly may produce that effect. I therefore draw the conclusion that it is not good policy to adopt the resolution, and I conceive it to be without a precedent in the history of this country, at least in the history of the last Administration.

The gentleman from Virginia has produced a case which he is willing to draw into precedent. I think that an examination will show, that it is essentially different from the present case, and predicated upon the same principle as that nauseous stuff which the gentleman dislikes, and which was offered up to the Executive by the Legislatures prior to the commencement of the late Administration. It will be found to be an address to President WASHINGTON, which recognised his conduct in issuing the proclamation of neutrality in 1793. That case was very dissimilar to the late act of President Madison, which was but a duty he was expected to perform. He has done it with ability and integrity, and there was not a citizen of the United States but expected it of him. President WASHINGTON had done an act which he was not directed to do by the Legislature; he had issued a proclamation on his own mere motion. I mention with great diffidence that it was questioned whether this measure was not a stretch of Executive power; and if it was so, it was necessary for the Legislature to recognise the act, inasmuch as it was one of the highest importance. Therefore I say that the case is not a precedent.

Several other reasons have been mentioned in favor of the resolution, which have been so ably answered by the gentleman from New York that I shall not notice them. Here might be an end

to the discussion, was it not for the manner in which the subject has been discussed by the gentleman from Virginia, and I think it fair to answer him in his own way. He seems to contend for the credit of the late accommodation—with whom? I have not understood that the Republican party have claimed any merit from it. It has not been said that this or that party should be entitled to the merit. No such claim, as far as I have any knowledge, has been set up in this country. It will then be fair to examine, on this subject, whether the gentleman's right to the credit which he claims is fairly made out. We are told that it is owing to the passage of the non-intercourse law that the overtures were made by Great Britain. The gentleman from Virginia has told you that he was opposed to the passage of that law, not from any dislike to it, but because he supposed that he might get clear of the embargo wholly. Suppose the gentleman had succeeded in his vote upon the non-intercourse, and then repealed the embargo, there would then have been existing no measure of resistance to British oppression. The Orders in Council would have been acquiesced in by this Government. Suppose that the disposition of the British Government to accommodate with America be ascribed to her misfortunes in Spain; I ask whether she would have had any inducement to withdraw her Orders in Council in this state of things? The reverse in Spain having produced a disposition to accommodate, yet, no measure of hostility being presented to the Orders in Council, why would Great Britain have withdrawn them? Is it to be supposed that the British Government is so very ignorant of the situation in which she was placed by the Orders in Council, that she would have withdrawn them? It cannot be attributed to this motive. If not, to what? Will you suppose, sir, that she has feelings of such sympathy towards America that she would have done it? I need only call to my aid the history of that nation from 1774 to the present day, for proof of a contrary disposition; for she could not withdraw a law in relation to this country, much less advantageous to her than her Orders in Council, until its fields were stained with the best blood of the country. It is then to be ascribed to the non-intercourse. If the embargo had been repealed without the latter, we should to this day been groaning under the Orders in Council, and perhaps our situation would have presented as mournful an aspect at the meeting of Congress, as the gentleman so feelingly described us, voting supplies, marching to Canada, &c.; for, sir, what would then have been our situation, if we had at the last session repealed the embargo wholly? We should have been retracing our steps, or plunging the nation into war, hesitating between the one and the other, exhibiting a stain on the American character, which years could not have effaced. Is this picture too highly colored? Is not the consequence which I have portrayed fairly resulting? Or will this visionary phantom, which I have raised, vanish into air at the slightest examination? Did not

the gentleman vote against the embargo, against non-intercourse, against everything? What measure did he advocate to resist taxation? [Mr. RANDOLPH.—Arming our merchantmen.] Arming our merchantmen! I ask that gentleman and this House, sir, to determine whether that was not a measure of hostility fraught with greater inconvenience than any other; and whether it would not have produced the voting of supplies for the bombardment of New York, as certainly as any other mode of warfare? It is to my mind as clear that arming these merchantmen would have produced war, as the radiant orb of day is to my sight. How then does the gentleman obtain his title to the credit of the present peaceful situation of our country? I conceive that his claim will not be supported by this House or the nation. I should have been happy, for the gentleman's sake and for my own, that this subject had never been presented for discussion. But as it has, I have thought it my duty to express my sentiments on it. Those feelings under which a young speaker necessarily labors, have deprived me of much of the matter, and most of the manner, of what I intended to say. I have given most of the reasons which will induce me to vote for indefinite postponement; if that does not carry, to vote for the amendment of the gentleman from Massachusetts, and finally as those events will place it in my power.

Mr. GARDENIER said, that having been one of those who had looked up to the elevation of the present Chief Magistrate as one of the most calamitous events to this country that could take place, he rose to make that atonement which was in his power for that error. Yes, sir, said Mr. G., this tree, from which I honestly expected so much bad fruit, is bearing fruit of gladness and rejoicing for our country. I am not only willing but take pleasure in making this avowal. The first important act of the Chief Magistrate of the United States, is one, which, while it calls for the confidence of the nation, demands no less the expression of it by this House. Being of the old school, sir, I am not of course very much frightened at the speech—not from the throne; thank God we have none, and I hope we shall long be without any—but by the idea of the terrors which are carried in the countenance of the Executive magistrate. If he would favor us with his presence to make his speech, my poor eyes would stand the dazzling glare of such an exhibition. Even in the British Parliament I have never understood that a speech from the throne humbles that body. I have never seen in their debate that the minority have been abashed by it; for, notwithstanding the speech, they have carried the terrors of their eloquence to the throne itself, and they have carried it by means of the answer to the speech from the throne. On that occasion it is, that the rights of the minority are unrestrained; it is then that they speak to the throne in language of freemen—for the House of Commons, elected by the people, though irregularly, constitute the democratic and consequently free part

JUNE, 1809.

Vote of Approbation.

H. OF R.

of the English constitution. If you were to exclude them from the right of expressing their opinion on public measures, they would say with great justice that an ancient and Constitutional right was withheld from them. They would protest against any measures calculated to deprive them of the right of speaking with freedom of the measures of the Ministry and King. The course which has been here pursued, in theory though pleasant to the eye, has in practice been a course which has fortified the Executive magistrate, and built around him a wall which prevented approach, through which the measures of his Administration could not be reviewed by any members of this House; because, forsooth, the House might be disposed to press a flattering reply upon him—but, in point of fact that this minority, a strong, ungovernable animal, might be muzzled. Your President was not unwilling to turn the delighted ear to the addresses of citizens assembled in meetings; and at no time has he frowned with severity at that courtly adulation of the Legislatures who have sung his own language in his own ears. He has thanked them for their patriotism, and republicanism too, in addressing him in this way. But if the Executive magistrate was, under the good old practice, flattered by these addresses in answer to his speeches, it was here to be canvassed whether he was entitled to that incense to be offered up by the majority; and I much doubt, when the praise of the majority was mixed up with the dispraise of the minority, if the bitter did not prevail over the sweet. The practice of communicating by message was one I will not say gone into for the purpose of precluding debate, but the effect has been that if we ever did examine the measures of administration, we were obliged to examine them piece-meal. We could not take them all in one view, to make that impression which is so proper for keeping in check the Executive branch of the Government. There might have been an apology made for the late President of the United States, which, if my late information be correct, could hardly be made for the present. I understand that in Great Britain the King can speak but cannot write. Now I think it very well there that the King should have at least something to do in public concerns, and inasmuch as he cannot write, let him speak (for the King of England was never remarkable for great natural gifts) what others have written for him. And if we have had a President of the United States who would write but could not speak, it was very well to reverse the usual order of proceeding under this Government. Whenever, sir, we have a President who can first write his speech and then deliver it to the House, I should like to see it, because it would show our superiority as a nation in point of talents. I wish to put down monarchy, sir—I am a republican, sir, and wish to show the men who will live the slaves of monarchy that they have nothing to boast of. It is, therefore, with these views of the subject that I could have been very well satisfied to have seen revived the good old way, of the Executive magistrate of the

people meeting the Representatives of the people face to face. I should like to receive a communication from the Executive, into which he could throw something of his own soul. On the other hand, when a message is sent, what practical good results from the change? I presume to say none at all. The only principle on which it could be excused, is, that the President could not read it to so august a body as this. If this were the case, it might be excused, but on that principle alone.

However, sir, be the practice of the Executive what it may, I stand upon the rights of the House, and I will never give up any portion of my right to speak of public men and public measures. I am rejoiced, therefore, that the gentleman from Virginia has laid before the House the resolution now under debate, because it enables us not to sing *Io Pæans*, not to offer up incense to the Executive, but to bring back to this House the right, which it ought never to have parted with, of animadverting upon the course of public measures, upon things which have passed. I would not tie myself down to approbate the conduct of the President, be it what it might; but when the President has done well, I will claim the right of approving him. I would say, "Well done, thou good and faithful servant;" and in so doing, I am permitted to say, if I please, "Ill done, thou bad and faithless servant." Where we have a right to praise, we have a right to dispraise, and vice versa; and will any one say that there is anything in censuring misconduct which is inconsistent with a republican form of Government? No, sir; whoever may feel it, no one will say so. I am, therefore, against a postponement of the question.

As to the amendment of the gentleman from Massachusetts, I do not know precisely what he means by it; and, therefore, know not whether I am for or against it. I find language almost literally accordant with it in the Message of the President of the United States. Now, sir, if this be meant as a mere echo of the President's Message, that I do call adulation; that I do not like; it is too kingly even for me; I do not want these echoes. I wish the House to express its opinion; but, after receiving the Message of the President of the United States, to breathe it back upon him is really nauseous. I believe the gentleman is a good republican; I extend to him the same charity which I ask for myself. This is a mere error into which he was led from the situation into which the House was drawn. To let the resolution pass entire, would not do; there was no objection to the substance of it, but that it should be adopted as the gentleman from Virginia (Mr. RANDOLPH) moved it, there were a variety of reasons which I will not detail, which rendered it manifestly unjust. It was, therefore, proper to move an amendment. In this point of view I object to it.

But, in another view, (as I cannot clearly comprehend the idea intended to be conveyed,) I will explain my difficulty to the House. "And furnishes additional evidence of the spirit of accom-

H. OF R.

Vote of Approbation.

JUNE, 1809.

'modation on the part of our Government, which 'has at no time been intermitted." Now, I agree with this, it is true; and I am surprised that it escaped the sagacity of the gentleman from Virginia, that, as an amendment, there can be no objection to it. Has it been intermitted? Intermission necessarily implies commencement.—Now, sir, since it *commenced*, has it ever been interrupted? The Government of the United States, since it *began* to entertain that spirit, has not intermitted it. This is all true, and I cannot object to the spirit of it; but I am afraid that I shall be compelled to vote against the amendment, because it is not republican—it is too much of an *echo*.

Now for the original resolution. I do much like the two words *promptitude* and *frankness*. The compliment contained in them is highly merited; and I will proceed to show it, according to my way of judging upon this subject. We have just emerged from that dreadful night of embargo which plunged in utter darkness, distress, and consternation, this great nation. Yes, sir, we have emerged from it. It is well, now, after having escaped so great a calamity, that we should retrace the causes of that calamity, and the means which have been happily employed ultimately to avert it. The original cause of this calamity may be distinctly traced to the issuing of the Berlin decree of the 21st November, 1806, and to the conduct of the American Government subsequently to that period in relation to that decree—a conduct (I am free to express my opinion) not calculated for peace, and as little for war—calculated to produce no other practical effect than the ruin of ourselves. By issuing the Berlin decree, the French Government infringed the rights of the American Republic and of the British Government. They did an act which, by the laws of nations, they had no right to do, either as it regarded this country, or as it regarded England. It was a mode of attack, as it regarded England, to which France had no right to resort. If I may be permitted to simplify this idea, it was as improper for her to have recourse to this mode, as it would be, in fair boxing, to knock an adversary after he was down. There are laws of war as well as of peace between nations. You are not permitted, legally, to do everything which you have the physical power to do. This need but be mentioned to be clearly perceived by every gentleman. France had not a right to assail her adversary through a neutral and friendly Power. France had committed an act unauthorized towards England by the Berlin decree. The interests of Great Britain and of the United States were both injured by the Berlin decree. Their interests and their rights, then, being mutually attacked, it was a mutual concern necessarily between the two countries. Both were interested in repelling this infraction of neutral rights; and the study of our Government should have been, as to this Berlin decree, and as to that only, to have made a common cause with Great Britain, and resisted the decree. If that common cause had been so made, a great deal of distress and ruin which has fallen upon the country would

have been avoided. Our Government, however, was silent upon this subject, though it was, in the nature of the thing, a common matter between this country and England; and I beg pardon of any fastidious gentleman, that I should think it possible that America and England could have common rights. As Great Britain could not be reached but through us, when she was so reached, both had one object: both were assailed, and ought to have made common cause. But, what did the Government of the United States? Did it show, at that time, a manly front to French injustice and arrogance? Did it consult with the British Government what measures should be taken to repel this assault? No, sir, but it took steps—strange to tell—precisely of an opposite character. The Berlin decree was issued on the 21st of November, 1806; the treaty negotiated between Messrs. Monroe and Pinkney and the British Commissioners was signed on the 31st December of the same year—say forty days after the issuing the Berlin decree. Did the Government of Great Britain, willing to ruin your commerce, (and many hold out this idea,) make use of this pretext, at that time, to retaliate upon you? No, sir; but what was the actual state of things? The Berlin decree had been issued; a treaty was digested and signed by the Commissioners of the two Governments of America and Great Britain, and there was much of friendly intercourse between the two countries. I would demand the manner in which the American Government received this decree. And much, I say, (for I am not afraid to speak the truth,) was to be expected from the American Government, placing itself as a fair and impartial neutral between the two Governments. Do you recollect that the British Ministers annexed to the treaty a note, in which—pointing to the consideration already mentioned, as regarded themselves, and the right of France to issue the decree—they said: "Such principles 'are in themselves extravagant, and repugnant 'to the law of nations; and the pretensions founded on them, though professedly directed solely 'against Great Britain, tend to alter the practice 'of war among civilized nations, and utterly to 'subvert the rights and independence of neutral 'Powers." Did not the Berlin decree tend to do this? And was it not an injury of a new, and, at the same time, of a most frightful character, as regarded Great Britain? In this situation, when an attempt was made by her antagonist to keep from her her best customer—and this attempt was an injury to her customer as well as to her—was it a point on which it could have been expected that the British Government would have been silent? Would not the British Commissioners have forfeited all claims to the confidence of the British nation, if, upon such a decree, they had not done something for themselves? Certainly. I speak of the time when they had only promulgated the decree. They signed a note, in which they said, that "They proceed to the signature 'under the full persuasion, that, before the treaty 'shall be returned from America, with the ratification of the United States, the enemy will either

JUNE, 1809.

Vote of Approbation.

H. OF R.

'have formally abandoned or tacitly relinquished 'his unjust pretensions.' Was this an unreasonable expectation? Was it unreasonable to hope that the system of injustice which the first nation in the world was, for the first time, practising against her, should be abandoned? Certainly not. But, if it was not, what next did she express a desire to have done? "Or (as the British Commissioners said) that the Government of the United States, by its conduct or assurances, will 'have given security to His Majesty that it will 'not submit to such innovations in the established 'system of maritime law." Was there anything wrong in this request, sir? It cannot be controverted, that, upon this matter, we had a common cause with Great Britain, whether we chose to make it so, or not. She said, "Do you declare, either by your conduct or assurances, that you will resist the decree—do something that looks towards it? We do not require a specific pledge; but, as we are so deeply interested in the manner in which you shall conduct, it becomes important to us to know what you will do about it." If such assurances had been given—if steps becoming the dignity of this Government had been pursued, would the British Orders in Council have been issued? There never would have been occasion for them. But this is not all contained in that note, for it continues thus: "The undersigned have presented this note from an anxious wish that it should be clearly understood, on both sides, that, without such an abandonment on the part of the enemy, or such assurances or such conduct on the part of the United States, His Majesty will not consider himself bound by the present signature of his Commissioners to ratify 'the treaty, or precluded from adopting such measures as may seem necessary for counteracting 'the designs of his enemy." Now, sir, was not all this fair? If we consider that Great Britain has rights as well as we—that one great right was in jeopardy in regard to her interest as well as ours—was this arrogance? Was it not reasonable? Having common cause with her, should we not have made that answer which she wished? But, what answer did we make? Was the Government of the United States content with being merely silent? No, sir; so far from giving any intimation that it meant to defend itself, the very circumstance of this note was made one of the causes for the rejection of this treaty, as the President of the United States, at the subsequent session of Congress, declared. He declares, that there was one consideration, independent of this note, which induced him to reject the treaty; thereby, clearly showing that the annexion of that note was considered as so offensive as to have induced him to reject the treaty, if there had been no other cause for it. After this, what in fairness could the British Ministers, bound to assert the rights of their own country, do? The United States never gave any intimation of the course which they intended to take. In the next place, the President had told Congress that their speaking to him was so offensive, that on that account, if on no other, he should have considered himself

warranted in rejecting the treaty. Were the British Ministry to expect, after this, that the President would have recommended a resistance of the French decrees? No sir; it would have been giving more faith than we generally give to them or they to us.

Now, sir, to carry you with me a little in the order of time, I would call the attention of the House to a letter, dated at London on the 22d of April, 1807. If my frequent recurrence to documents should fatigue the House, I beg them to bear in mind that, in these documents, they may find truth as well as the arts of able diplomatists. On the 31st of December, 1806, then, the note was annexed to the treaty. On the 22d of April, 1807, Messrs. Monroe and Pinkney, in their letter to the Secretary of State, inform him that they had an interview with Mr. Canning: "As 'soon, however, (say they) as we glanced at the 'objects of this interview, he observed that he 'had just received intelligence, which, if true, 'would make it unnecessary for us to enter at 'present on any of the topics alluded to; that 'it 'had been represented to him that an officer just 'arrived from America, had that morning informed the Admiralty that the treaty which had 'been lately concluded here had been rejected by 'our Government," &c. He observed that "such 'an event would place the relations of the countries in an embarrassing situation," &c. Here now it will be proper to bear in mind that this treaty was framed by the Ministry, one of whom made that fine speech in Parliament, which the gentleman from New York read, the Ministry most friendly to this country, if there be any such thing as friendship toward us, which I very much doubt. This treaty, thus made, was sent back immediately after the issuing of the Berlin decree, which so closely connected, in one respect, the interests of the two countries. Was this not a fair cause of suspicion? Well might Mr. Canning hesitate as to what he should do in this new state of things. But, to complete his disappointment and confusion on this subject, the American Ministers, on the 24th July, 1807, addressed to Mr. Canning another note. This was the first answer which was ever given in any way whatever to the inquiry as to what the American Government meant to do in relation to the Berlin decree. It was as follows:

"There is another object to which the undersigned have the orders of the President to invite the attention of His Majesty's Government, as affecting materially, and giving a new and unexpected character to the proposed treaty. They allude to the written declaration, relative to the French decree of the 21st of November last, by which His Majesty's Plenipotentiaries accompanied their signature of the treaty; a declaration which, in its actual form, creates unnecessary embarrassments in the way of an acceptance of the treaty by the United States. The undersigned persuade themselves that, as this proceeding, to which no sanction was given on their part, imposed on the United States no new obligation, could only be intended to declare that, in signing or ratifying the treaty, it was understood by Great Britain that nothing contained in it would be a bar to any measure, which, if no such trea-

H. OF R.

Vote of Approval.

JUNE, 1809.

ty had been signed, would be lawful as a measure of retaliation against her enemy, and as the occasion which produced it does not appear to exist as then supposed, it will not be thought that anything is sacrificed by withdrawing it as unnecessary."

Yes, sir, an inquiry made by Great Britain in a most perilous conjuncture was answered by a cool and very sarcastic desire, that her inquiries on that subject might be withdrawn. This was the answer which they received to an inquiry as to any disposition of the American Government to acquiesce in the Berlin decree. It is not to be wondered at that this answer was unsatisfactory. It cannot be wondered at. There is another letter from the same gentlemen of the 22d October, 1807, to the Secretary of State, to which I will refer, in which it is stated that, in the course of a conference with Mr. Canning, he asked an explanation of their former answer to the note on the subject of the Berlin decree, which answer they agreed to give in writing. Mr. Canning closed the interview by saying that it would be necessary to postpone what he had further to communicate to another opportunity. No information, no explanation was given, sir; nothing partaking of the nature or quality of conciliation having been resorted to. A deathlike silence was observed on this point of critical interest to the nation. A note was delivered, attempting to prove that the occasion which produced the note annexed to the treaty had disappeared; and what ground was taken in that note, sir?

"Great anxiety having been excited by a construction which many believed the decree to be susceptible of, the Minister of the United States at Paris requested of the Minister of Marine, who was charged with its execution, an explanation of the sense in which it was understood by his Government, who assured him that it was not intended that it should in any degree interfere with the provisions of the Treaty of 1800, between the United States and France. We relied, also, upon the fact, not only that no countenance had been given by any practice or judicial decision, in France, to a different construction, but that the practice was in precise conformity with the view above suggested, and that in a cause in which the question had been formally brought into discussion, the Court had sanctioned the conclusion that the treaty between the two nations was to be exactly fulfilled, and that the decree was to be so construed as not to infringe it."

This was the answer given, to this amount: "Your solicitude about the operation of the decree is extremely idle, because we are perfectly satisfied, and you should be too, that the principle on which it goes will never be carried into execution."

It is easy to conceive how very far such a declaration fell short of what was requested in the note, of Lords Auckland and Holland. It came to this point: either that the British Government was to be satisfied, or to go on to the alternative which was threatened. It did go on to it. The British Government did not trust to these favorable appearances, which it suited France to hold out. Who, then, was wrong, we or they? Did France act upon that decree, or did she not? For the whole point of this miserably conducted ar-

gument, turned upon this at last: that if there was sufficient ground to calculate that the French Government would not execute its decree, then the British Government ought to be silent; but if she did execute it, that the British Government should take care of its own preservation. How was the fact? France did execute the decree; and from that moment there could be no doubt that resistance was justifiable. But it appears that Great Britain did not know it was carried into execution before she issued her Orders in Council. If so, Great Britain displayed more knowledge of the character of nations than falls to our share. I have read, in a speech made in the other House, as to the embargo, that, if the Orders in Council were not known, yet the embargo was a lucky hit. Then, sir, if Great Britain did not know that the Berlin decree was executed, the Orders in Council were a lucky hit. And, sir, as to the question whether the Orders in Council were known here when the embargo was laid, I will just step aside to notice it. In a letter, dated February 19, 1808, to our Minister at London, we find this passage: "My last, which was committed to the British packet, enclosed a copy of the act of embargo, and explained the policy of the measure. Among the considerations 'which enforced it was'—What? The knowledge of the Orders in Council? No, sir; 'the probability of such decrees as were issued by the British Government of November 11,' &c. Now, I do hope that, after this, we shall not have any more sophistical wire-drawn reasoning to show how they might have been known, when Mr. Madison himself has told our Minister at London that the Orders in Council were supposed to be meditated, and that their appearance afterward justified the embargo. But I think that gentlemen are carrying this point too far. Let them not go the whole length of saying that the Orders in Council were known before the embargo. It is giving the lie to Mr. Madison most indecently; and as to this way of complimenting him, though I have very little to expect from him, I cannot concur in it. Not only, sir, am I willing to allow, in the language of this letter, that there was a probability of the issuing the Orders in Council, not only that the language of the British gazettes left little doubt of it; but I feel justified in going a great deal further, and say, that the celebrated note rendered it improbable to suppose that anything else could have happened. The British Government said, "we desire that France should abandon her system, or, if not, that you will take 'some measure which will defend us.'" If we expected that the British Ministers would keep their word, we might safely swear that the Orders in Council would issue. It is not necessary to the purpose of my argument at this time to say that Great Britain did right in issuing these Orders in Council, though I am free to acknowledge that, for the promotion of her own interest, it was right; but it is my purpose to show that the ground has been yielded, and that it has, is one of the reasons why we find ourselves in a situation so comparatively happy.

JUNE, 1809.

Vote of Approbation.

H. OF R.

Permit me, to go to the proof of this, to state, as my conception, that there were three things which prevented that accommodation between the two countries, which was so essential to the prosperity of both. They were these: the proclamation, the refusal to coalesce with Great Britain in resistance to the Berlin decree; and, lastly, the refusal to repeal the embargo. These are the three reasons which prevented the accomplishment of that good of which the President has put us in possession. Great Britain demanded that we should intimate by our conduct or assurances that we would not submit to the innovations on maritime law, attempted by the Berlin decree, and, throughout the whole of this correspondence, made it a point that she would never give up her Orders in Council until she had some pledge to that effect from us. She now has that pledge, and it is a great misfortune that it was not given before. Yes, sir, the first resolution reported by the Committee of Foreign Relations last winter, adopting the language of Lords Holland and Auckland, declares that the United States cannot submit to the French decrees. I am disposed, on this part of the subject, to give the present President credit for his adroitness. I should not be surprised, sir, were the secret history of the Cabinet ever to be written, if it should turn out that, without the knowledge of the then President of the United States, the present President had, by making a very surly face at Great Britain, caused a demand to be made of France that she should revoke her decree, and given that very pledge which Great Britain demanded of us. Great Britain issued her Orders in Council to keep us from France. It was said that we could not go with any safety on the ocean between the French decrees and British orders. Now was supposed to be the happy time, when the planets were auspicious, for involving us in a British war: but, it did so happen that, in the nature of things, we could not declare the British orders to be unlawful, without declaring the French decrees to be unlawful, also. We could not oppose one without also opposing the other. The very moment that we fought both Great Britain and France, Great Britain did not want any quarrel with us. If we had put ourselves in opposition to France, when the question was raised, in the note attached to the treaty, we should never have had the Orders in Council. But we had them. We did declare, after we had them, that we would give the pledge. It was rendered indispensably necessary, by our refusing to give a pledge of resistance to the Berlin decree, that the Orders in Council should be issued. That pledge now having been given, it became as necessary that the orders should be withdrawn. It was folly for Great Britain to have continued them. We were fighting Great Britain (on paper)—for what? Because she joined us in the maintenance of our neutral rights. We acknowledged that, as soon as the Berlin decree was acted on, it was cause of war, but felt too proud to vindicate ourselves from the imputation of submitting to it, because Great Britain had asked it of us. When we had passed

the non-intercourse law as to France, and excluded French ships from our harbors, we were placed in a situation which disabled us from submitting to the Berlin decree, and are now in that situation. I would observe that, at the time these measures were agitated, we had all a little sand in our eyes; we did not understand the subject as completely at that time as we do now; and I am pretty well satisfied that, when the secret history of the two last years is divulged, it will be found that while the former President was endeavoring to fan the flames of war, the Secretary of State, by originating these resolutions, &c., was smoothing the way for the happy discharge of his Presidential duties when he should come to the Chair. I think it did him honor. The ground, then, having been taken, we, standing pledged, in the face of the world, to resist French injustice, have done what we were required to give a pledge to do. There is, therefore, no further difficulty on the part of Great Britain, in relation to us. She withdraws her Orders in Council, and leaves us precisely in the situation in which she first asked of us to place ourselves. All the difference is, that the Orders in Council are enforced now by us instead of herself. In bringing about this state of things, I yield my hearty approbation to the President of the United States; and I believe that, when I could not see the end of our troubles, the President was secretly conducting us to the late happy result.

But, says one gentleman, the embargo has so humbled the British nation, and the terrors of the non-intercourse law have performed such miracles, that she is willing to fall at our feet, and the equal footing on which the two countries was placed, was a pretence, and nothing more, for their change of position. Now, let us examine it; for I do consider it extremely important that the fact should be ascertained and established whether the embargo was such a machine as to produce all these consequences; for, if it was, let us never forget that we had it, and have recourse to it on every future occasion. If it was, sir, let us inscribe it in golden characters over your head, that it may stare us in the face, whenever we rise to address you. But, if the late change be not ascribable to that, but to the abandonment of that pernicious system of which the embargo formed a principal feature; if it be ascribable to the frankness and promptitude with which the President met the late overtures, let us say so. The medicine has operated, and it is correct that we should ascertain by what physician the cure was performed. That medicine, which had like to have killed us, will never be resorted to again.

The proclamation was another stumbling block, in the consideration of which I must again have recourse to the volume of truth. It will be recollected, sir, that when the affair of the Chesapeake first became public at London, it was known to the British Minister before it was known to our Ministers. While things were going on very smoothly, in relation to that matter, information was received that the President of the United States had issued a proclamation in-

terdicting the entrance of our waters to British vessels, and objection was made to it—on what ground? That the United States had no right by the law of nations to exclude armed vessels from their waters? No, sir, that was a ground which was never contested. For, in point of right, foreign armed vessels can no more claim permission to come within our waters than their armies can claim a right to encamp on the terra firma of our country. The right is enjoyed but by indulgence. But, if the armies of France and England were engaged upon our frontiers, and we should permit the army of one to receive accommodation and comfort within our territorial limits, and were to exclude the other, we should violate the neutral character by aiding one to the depression of the other, taking, so far as this partiality extended, a part in the war; we should, in fact, be doing a hostile act. On the other hand, if we permitted both to come into our territories and fight it out, we still keep our neutral character, impartiality being of the essence of neutrality. When, therefore, the proclamation interdicting British vessels was issued, it was complained of only on this ground:

"The total exclusion of all ships of war belonging to one of two belligerent parties, while the ships of war of the other were protected by the harbors of the neutral Power, would furnish no light ground of complaint against that neutral, if considered in any other point of view than as a matter of retaliation for previous injury; and, so considered, it cannot but be necessary to take it into account in the adjustment of the original dispute."

If the House will give me a little attention, they will see that the objection to the proclamation did not go on the ground simply that British vessels were prohibited from entering, but that while British vessels were prohibited, French were admitted. It was admitting the army of one belligerent to occupy your territory while that of the other was prevented. Therefore, the giving the use of our waters to one belligerent and refusing it to the other, was a fair and just cause of complaint; and, until both were admitted or both excluded, Great Britain refused to treat or make reparation for the attack on the Chesapeake. Mr. Rose came forward afterward with a long letter on the same subject, and we find that he comes to the same conclusion. This point, wherever the subject is treated, is not lost sight of. You find it afterward, in the reply which was given by Mr. Canning to Mr. Pinkney, when Mr. Pinkney made the famous proposal to the British Government, that if they would withdraw the Orders in Council, the embargo should be suspended as regarded them. One reason of refusal was, that British vessels were interdicted while French were admitted. She wished that both should be admitted or both excluded. She never would enter into any negotiation until that equality was produced. She has not talked as much as we have, to be sure, but she has acted more. Now, sir, by the non-intercourse act, this demand of placing both nations on an equality is complied with, and she offers that reparation which she has hitherto refused.

But it is said that the proposal made by Mr. Pinkney last summer embraced the same terms. And how? What did Mr. Pinkney offer at that time? After talking about and about the subject, Mr. Canning not understanding him, desired him to commit his ideas to paper. He wrote it. "I have the honor to state, says Mr. P., that it was the intention,"—it was (not, it is) the intention of the President of the United States to suspend the embargo as to Great Britain in case she should withdraw her Orders in Council, &c. And Mr. Pinkney then makes no pledge that the embargo shall be continued as to France, but goes into an argument on the subject. Was this the pledge required by the British Government? No, sir; we find, till that demand was complied with, she never would come to a settlement. Now, if the Orders in Council had been then repealed, would it have produced those consequences subsequently produced by her perseverance? No, sir. In the first place there was then no pledge on record that we would resist the French decrees; our Government having studiously avoided such a pledge. The Government was not pledged by Mr. Pinkney even to keep the embargo in operation in relation to France. They were not yet willing to pledge themselves to resist France. They would not act a manly part even then. It was not enough that France disregarded all neutral rights and the obligations of a sacred treaty. We would not then give intimation that we would resist France, but all we said, was, that if France persisted in her decrees, we would continue the embargo as to her. On this ground the Orders in Council were asked to be withdrawn. British vessels would still have been excluded whilst French were admitted. But at last that state of things has arrived, as to the pledge that this country will not submit to the French decrees, and as to both nations being placed on an equality in relation to armed ships, in which we ought first to have placed ourselves. The proclamation being removed is no impediment to that adjustment. It never would have been an impediment, if this Government had been willing to do originally what it at last consented to do.

The third, last, and only impediment was the existence of the embargo. As long as that remained in force, the British Government stood pledged not to withdraw the Orders in Council. The embargo is given up. But the address and adroitness of the Government is distinguishable there too; for while they killed the life and soul of the embargo, they held up the lifeless corpse as though in full life and vigor. The great argument in favor of the embargo was, that it would starve our adversary. Now we had repealed the embargo, except as to Great Britain and France; we had come down on our knees, and thus broke our fall. It was said to our merchants, you shall not go to Great Britain; but you shall go to St. Bartholomews, and thence Great Britain may get your produce. As soon as you said that, sir, you abandoned the principle on which the embargo went. It was no longer an embargo to that purpose for which it was designed. But it

JUNE, 1809.

Vote of Approbation.

H. OF R.

was better for our own interests to have permitted direct exportation, as I shall prove; for it is a material consideration with Great Britain to have her shipping employed. If we had exported our produce immediately from this country to Great Britain, I see very plainly that British shipping would not have been employed; but as it was, in striving to affect, and perhaps injure Great Britain, we gave employment to her seamen and ships which she would not otherwise have had. But I say that the principle of the embargo was completely abandoned as soon as Congress consented to give vent to the productions of the country by a partial repeal of the embargo. This measure was adopted on the ground that Great Britain stood so much in need of our produce and raw materials that she could not live without them; and the moment that we repealed it in this manner, the embargo was destroyed. It looked well to have the embargo continued as to Great Britain and France, because it saved appearances. I do not know that the Government was to blame. In the same letter of Mr. Canning to which I have alluded, there is an expression, the import of which plainly is, that if the British Government could restore friendly relations between the two countries without appearing to deprecate the embargo as a measure of dreadful hostility, she would have been very willing to have treated with you. If the embargo had remained to this day, would you not have remained without a step being taken? But we did repeal the embargo, notwithstanding the name which was left, so much that it could not be supposed by anybody to operate on Great Britain so as to be injurious to her. Those who saved appearances by a partial repeal of the embargo, granted what she wanted in this respect.

When these three impediments were removed, and by our Government too, when the door was fairly opened, Great Britain walked in and offered to the President of the United States that, since we had done all that she could reasonably desire, and we did nothing more, she was willing to do all that we could reasonably desire. It is for the promptitude and frankness with which the President met the late overture that I thank him most cordially for my country. I approve it most heartily. When Secretary of State, he satisfied me that when he wanted to keep off accommodation, no man was more competent; for instance, when reparation was offered in London, and our Government had as lief have taken poison as accepted it. I know that the President of the United States, in the course of diplomatic discussion, could have produced delay in such a manner that no one could well have decided what prevented the arrangement from coming to a happy conclusion. But he chose, when he came into power, to dispel that darkness which the Administration of his predecessor had spread around. He acted with promptitude and frankness, and merits the gratitude of the nation for it, and it is the duty of the House of Representatives to give their approbation of that act. And I am willing to join in it, not because I am in the

habit of pouring out the incense of adulation—for I will tell gentlemen very frankly, that if any one who is so averse to praise, were to blame the President for his conduct relating to the resistance to the laws in Pennsylvania, I would join him; but whilst I express my disapprobation that he has not repressed rebellion, that he has not detailed the causes out of which it grew, and the manner in which it was composed, I must express approbation of his conduct in relation to the subject now before us. I must, indeed, regret that the President has not even submitted it to the consideration of Congress, when there was a rebellion, in the heart of the Government, a rebellion against the judicial authority of the United States. I shall not make a motion to express my disapprobation; but if other gentlemen did, I might vote for it.

A colleague of mine (Mr. Fisk) yesterday undertook to instruct us by reading part of the speech of a British nobleman, instead of listening to the dictates of his own judgment. As to this same Lord Grenville, I have a word or two to say. Perhaps my colleague does not know that in Great Britain they understand the game of ins and outs as well as here; that there, as well as here, men have one set of political connexions to-day, and a new set of political connexions and principles to-morrow. But the little knowledge which I possess of British corruption (I am sure I shall be applauded for that word) enables me to say that there are men in Great Britain who do not practise what they think, who make speeches for the mere purpose of putting the ins out, and themselves in. And though I would not put Lord Grenville, my worthy friend's friend, on his trial here; yet, since he is brought in, I choose to pay my respects to him. You have heard me read the note attached to the treaty. Would you believe, after hearing his speech, that this same Lord Grenville was one of the British ministry who pledged the British nation by that note to the Orders in Council which were subsequently issued, in failure of the conditions stated? And this man is to be appealed to as authority that the offer of Mr. Pinkney in relation to the embargo was really fair, and such as the Government should have consented to! Will the gentleman go the whole length with his British friend? He says that when the offer to repeal the embargo was made, then the Orders in Council ought to have been rescinded. In the opinion of Lord Grenville, the Orders in Council only became unlawful when the British Government refused the offer of the American Minister. Is it fair to bring the arguments of the British minority to prove that the American majority are right? It might be right if it would not cut both ways. How would it operate? I am a Representative of 33,000 souls, a situation which I feel as honorable as to be a British peer, and, therefore, am on an equality with a member of the British House of Lords. I have said that the Orders in Council were fairly justifiable. Now, suppose that a British subject were to quote my argument as evidence that they were lawful—

H. OF R.

Vote of Approval.

JUNE, 1809.

I have no doubt that Lord Grenville would make a pretty speech on the occasion. And this shows the absurdity of quoting arguments used by the minority there, as decisive on the subject of measures which it is a part of their plan to decry.

I think, after this very fair exposition, there can be no doubt in this House that there is a great merit which much attach somewhere or to somebody, in bringing us to this blaze of light from that scene of utter darkness, in which we groped so long. I cannot reconcile it to my mind to give credit for it to any one but the President of the United States. It is not the embargo which has done it, or the embargo might have a sort of posthumous merit, the merit of doing that when dead which it could not accomplish whilst living. As to the non-intercourse, no body ever dreamt that the non-intercourse would have more power than the embargo, which I think I have shown to have had none. It is, therefore, owing and solely due to the proper temper with which the overtures were received. And it is now in proof before us, as I have always said, and contended, that nothing was wanting but a proper spirit of conciliation and fair and honorable dealing on the part of this country, to bring to a happy issue all the fictitious differences between this country and Great Britain; and that is now acknowledged to be true, for saying which I was so much censured—censured because, in saying it, it was supposed that I had an opinion of the British Government which did not become an American citizen. Let me be understood that I have not that confidence, that I am no advocate of Great Britain. A mutual dependence of interests one upon the other rendered it a point of interest for Great Britain to be in a state of amity with us when it could be done consistently with a sense of her own right. But I praise not Great Britain, nor give her any eulogy for it. It is her interest which actuated her; and on this account alone should this country have produced this state of things long ago. It long ago might have been produced, if we had not made a fictitious quarrel with Great Britain, which gave much room for political dispute, and has been the means of dreadful destruction to the United States. I wish not to discuss the point whether this or that party is entitled to the credit of the present state of things. I do not see the necessity of it. But if it were necessary, I might ask, at the last session who was it in their speeches that endeavored to soften the public temper, to bring it down to a medium which was necessary to induce the British Government to meet us? You remember, sir, that there was in this House a party, who, revolving round the Executive, derived light from him; who cried out "war! give us war!" Who, when they found they could not get us into war, begged for letters of marque and reprisal; and who, when they could get neither, wished for a continuance of the embargo. No, said others—(and I believe, sir, that you yourself had some share in it,) the people began to open their eyes, and some gentlemen became convinced that if they did not stop their course the people would stop them from coming

here again. There were protesters, Republicans, and a little handful of we poor Federalists, few in number at that time, who formed a class, No. 2, which would not have war, letters of marque and reprisal, or embargo. There were some who were as well content as any of us not to do anything in point of substance, but who wished to take to themselves the credit of proposing a substitute; and they certainly took as mild a one as could be expected. We had heretofore endeavored to coerce Great Britain by non-exportation; but now we tried another novelty. It was non-exportation before; and we changed it for non-importation. What coercive or other effect was expected from that, I never heard. The men revolving round the Executive came down to the measure because the House would not go higher; it was the most hostile measure they could get, as they avowed as their reason for voting for it. This is the true exposition of the whole thing. Would you, after this, say that the embargo brought about the accommodation? The Gog and Magog of the party were shivered to pieces. The non-intercourse law was not a measure of the Administration, but a measure of compromise between the hot and the cool. And, after all our troubles, we may be permitted to laugh a little that our relief was brought about by this poor non-intercourse law. The President has made good use of it. Therefore, I say, let praise be given to the Executive for the promptitude and frankness with which he has acted.

I would now, sir, as we are arrived at an era in which we have a right to look forward to the same prosperity and happiness for which our country was distinguished under the Administration of WASHINGTON and ADAMS—the two first years of Mr. Adams's Administration I mean—I would hope for an abandonment of political intolerance, which misguides men themselves and by which they misguide others; that the contentious spirit of party, which has made so many blind to their own errors, will cease; and that from this time a new party, a party bent upon promotion of the prosperity of the country and the preservation of the public liberty may succeed—a party of the country and the Constitution. Both parties have run wild so long, that it is perhaps fair to say, as it is certainly true, that neither is exactly right.

"When public contest lasts so very long,
No side is wholly right or wholly wrong."

Let us return to the steady sober principles of the WASHINGTON Administration, as well as to our foreign relations as to our internal concerns. We had enough of Mr. Adams's system of sedition laws, &c., during his Administration, and enough of the palaver of philosophy since. I wish to have the golden age of WASHINGTON revived. It was then usual to speak freely. Let us do it now.

As it regards the motion now before the House, let us take into view this consideration, and I recommend it to the attention of the gentleman from Kentucky, (Mr. McKEE:) that if General WASHINGTON issued a proclamation not author-

JUNE, 1809.

Territorial Governments.

H. OF R.

ized by any existing law, but so much calculated to promote the public prosperity and to call for public consent, so in the present case did President Madison; for there is no law authorizing the proclamation which he issued, and which I so much approve. It is not expressly warranted by law, but it is in the spirit of the law. Suppose that a vessel should sail from the United States, after the 1st of June, to Great Britain, and it should be found, on a legal investigation, that the proclamation had not suspended the law, not being issued in conformity thereto, and the merchant was to be prosecuted for a breach of law—could that proclamation be pleaded in bar of recovery? Certainly not; because it was only authorized to be issued after the revocation. It is not only necessary that the proclamation should be approved, but that a law should be passed giving validity to it. We should not, therefore, be content with merely giving this approbation, but should go on and pass laws upon it. If we last Winter got upon some notion of passing abstract propositions against which I voted, I can show that I preserve consistency in voting for this, by showing, as I have done, that a law may be founded on it.

In every point of view, whether gentlemen on one hand are willing to do justice to the Executive, or to heal the wounds of party which have bled so long; if they are willing with the returning prosperity of the country to restore to social intercourse that harmony without which life and liberty are of so little value, let us go with them. Let them not be so frightened by our praise as to draw back, or how are we ever to approach them? I entreat gentlemen, therefore, not to be afraid of us. We are an honorable party, not guided by party zeal alone. When the Administration deserve credit, we will give it to them; and when they deserve censure, I believe gentlemen will give us the credit of not being too sparing of it.

—
FRIDAY, June 2.

Another member, to wit: JOHN CLOPTON, from Virginia, appeared, produced his credentials, was qualified, and took his seat in the House.

Mr. LOVE presented a petition of the President and Directors of the Potomac Company, praying that an act may be passed authorizing a lottery in the District of Columbia, to raise the sum of one hundred thousand dollars, to be applied to the improvement of the navigation of the Potomac and Shenandoah rivers.—Referred to the Committee for the District of Columbia.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill to continue in force "An act declaring the assent of Congress to a certain act of the State of South Carolina, passed the twenty-first of December, one thousand eight hundred and four; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. McKIM presented a petition of the sugar refiners in the city of Baltimore, to the same ef-

fect with petitions from sundry other sugar refiners within the United States, before stated.

Mr. MONTGOMERY presented a petition of sundry distillers and other citizens of the United States, praying that the importation of foreign spirits distilled from grain may be wholly prohibited, and that additional duties may be imposed on the introduction into the United States of foreign spirits distilled from other materials.—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. MONTGOMERY,

Resolved, That a committee be appointed to inquire whether any, and what, compensation ought to be made to Major Zebulon M. Pike, and his companions, for their services in exploring the Mississippi river, and in their late expedition to the sources of the Osage, Arkansas, and La-Platte rivers, together with their tour through New Spain; and that they have leave to report by bill, or otherwise.

Mr. MONTGOMERY, Mr. ROBERT, BROWN, Mr. GHOLSON, Mr. LIVINGSTON, and Mr. KENNEDY, were appointed a committee, pursuant to the said resolution.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting his annual report, prepared in obedience to the act, entitled "An act to establish the Treasury Department;" which was read, and referred to the Committee of Ways and Means.

TERRITORIAL GOVERNMENTS.

Mr. POINDEXTER observed that, in consequence of the frequent and wanton exercise of the power given by the ordinance of 1787 to the Territorial Governors, to prorogue and dissolve the General Assembly, he thought it his duty to present a resolution. He said he did not expect it would be acted on, but he thought it his duty not to let a session pass over without attempting to expunge this foul stain from the statute book of the United States. The following is the resolution:

Resolved, That a committee be appointed to inquire into the expediency of repealing so much of the ordinance for the government of the several Territories of the United States, as empowers the Governors thereof to prorogue and dissolve the Legislature.

Mr. TROUP had no objection to the appointment of a committee, but he trusted that the committee when appointed would take especial care not to interfere despotically with the articles of cession, or any articles of agreement between the State of Georgia and the United States.

Mr. POINDEXTER said the gentleman certainly could not wish to retain this principle, which had been borrowed from the worst features of monarchical government of Great Britain. When a bill was reported, if the gentleman thought the people of the Mississippi Territory were exclusively to be ruled in this manner because that Territory had once been attached to the State of Georgia, he might prevail upon the House to except that Territory from the benefits to be granted to other Territories.

H. OF R.

Non-Intercourse.

JUNE, 1809.

Mr. TROUP said it would be recollected that this question had been stirred at the last session, debated at considerable length, and that the same proposition as this was rejected by a respectable majority as he believed, and exclusively on the ground of such a repeal being an interference in the articles of compact between Georgia and the United States.

Mr. POINDEXTER wished to state the fact, that it had then been postponed indefinitely, not rejected, by a majority of only three votes.

The resolution was agreed to—57 to 32; and Mr. POINDEXTER, Mr. TROUP, Mr. GOLD, Mr. LEWIS, and Mr. McKEE, were appointed a committee pursuant thereto.

NON-INTERCOURSE.

On motion of Mr. J. G. JACKSON the unfinished business of yesterday (Mr. RANDOLPH's motion for a vote of approbation) was ordered to lie on the table, 54 to 41; and,

The House went into a Committee of the Whole, Mr. BASSETT in the Chair, on the bill continuing in force and amending the non-intercourse law. A motion was made by Mr. GARDENIER that the Committee rise for the purpose of recommending the bill, to amend it so as wholly to repeal the non-intercourse law, and re-enact that part of the system which it was judged would be proper to retain, in a separate bill.

MESSRS. QUINCY, LIVERMORE, and GARDENIER supported the motion.

Mr. J. G. JACKSON said that the whole system comprised in this bill was proper in itself, and that there was no such difficulty as had been described. All the provisions respecting our foreign relations, except the non-intercourse act, were continued in it, and three of the sections of that act were contemplated to be repealed by this. All construction of the law is confined to the sections of this bill, and the sections of the non-intercourse law revived by it, which may as well be re-enacted by this law, if the principle be correct, as to have them introduced at length into the bill itself.

It will be seen that this bill contains two great features. 1. Non-intercourse with France, subject to the provisions of the eleventh section of the non-intercourse act, which authorizes the suspension of the law. 2. The exclusion of the armed ships of both France and England.*

The first is the result of our own sense of consistency, dignity, and propriety of conduct. Is it proper to continue the course which has been commenced? Will you prohibit intercourse with France till she, like Great Britain, either does us justice, or gives us authoritative assurances that she will do it? I am glad that it is in our power to discuss this question coolly and deliberately; that there is nothing like a positive obligation on the Government to do this act. The course we are asked by this bill to take, implies an expecta-

tion that France will do us justice. If so, trade with her will be renewed. Until then, we shall have no trade whatever with France. The language held out at the last session, until we hear from France, as we have heard from England, shall be continued towards the former; and when an answer is received, such ulterior measures will be pursued by the Government as shall be consistent with the honor and rights of the nation. I am glad that it was not required by Great Britain, as in the obnoxious note attached to the treaty, or promised on the part of the United States, as proposed through our Minister at London, heretofore, to resist France; that we are not, on the one hand, subject to menace, or on the other, under the obligation of a promise; but that we will do thus because we conceive it to be right. We display to Great Britain, by the prohibition of intercourse with France, a determination to manifest impartiality in our conduct, notwithstanding all the clamors raised at the last session, and repeated at this, that we are unwilling so to act. It was said yesterday, that we had shown a willingness to submit to the Berlin decree; that we had not evinced a disposition to resist it, and that therefore he Orders in Council were justified. I deny that our non-resistance would have been a justification of them. But how often must this charge be exposed and refuted? We did resist the decree, not in the way required by Great Britain. We did not send a hostage by way of surety, to be immolated at the caprice of a foreign Power. We did not give "security to His Majesty;" but we did manifest a disposition to maintain our rights, and resist the usurpation of Bonaparte. Let the gentleman recur to the subject, and he will find that, immediately on issuing the Berlin decree, a letter was written by General Armstrong to one of the Ministers to whose care the execution of the decree was confided, (the Minister of Foreign Affairs being then at Berlin with Bonaparte,) and it was answered, the operation of the decree would not interfere with the treaty between the United States and France, and the practice conformed to the profession, till the famous or infamous case of the vessel wrecked at Morlaix. We then had, by our conduct, manifested a disposition to resist the Berlin decree. But, sir, I rejoice that we are not bound by the engagements of the American Government, or the requisition of Great Britain to pursue this course, though I conceive that our character, honor, and rights, require of us to persevere in the system commenced, and that there is an implied engagement similar to a debt of honor, which, although we are not legally, we are morally, bound to discharge; that we will not renew intercourse with her while her decrees are in force any more than we would with England while her Orders in Council were in existence. We did not desire, at the last session, to go to war with England or France, as was stated the other day; and, by the by, I will now notice a suggestion of a gentleman from New York, (Mr. GARDENIER) that it was the wish of the ex-President to involve the country in war, and that the proc-

* This speech was made on the bill as first reported. It was subsequently recommitted, and reported again, so as to admit, instead of excluding, both.

JUNE, 1809.

Non-Intercourse.

H. OF R.

clamation was issued for that purpose. I appeal to his own recollection, that there never was and never will be a more unequivocal manifestation of a disposition to preserve peace than was made by that proclamation. On that occasion, when the news of the outrage arrived, one general burst of indignation was heard from Maine to Georgia, and from the Atlantic to the Mississippi, all vying who should express the greatest indignation. Then was the moment for war, if enmity to Britain had existed in the bosom of the Executive. If Congress had been convened, and a recommendation to that effect had been made by the President, unless gentlemen are more inconsistent than it is possible to conceive of, a vote of war would have been immediately obtained. For, even after Congress met in October, and such communications had been received from the President as were calculated to allay the fermentation of our minds, some of the members were for making a descent on Jamaica, and marching to Canada; they thought it a fair opportunity for taking possession of the Northern provinces. And this alone should prove to the gentleman his mistake.

To return to the subject before the House—I say that the course now recommended by this bill is consistent with that of the last Winter, which was not war, but the reverse. There was a proposition to go to war on demand and refusal of either Power to rescind its decrees; but it was not the object of the mover of that amendment to go to war with Great Britain or France immediately, but, after demand made and refusal on the part of His Britannic Majesty, or the Emperor of France to withdraw his decrees, to authorize the President of the United States to grant letters of marque and reprisal. And strange it is, that, by some curious manœuvre of legislation, the very gentlemen who are complaining against us for manifesting this disposition of hostility against Great Britain, voted for the amendment of the gentleman from South Carolina (Mr. D. R. WILLIAMS) for striking out the condition on which letters of marque and reprisal should be issued, thus making it a proposition for immediate war. [Here Mr. J. referred to the Journal, page 443.] This bill I conceive to comprise the course proper for us to pursue. I would say to France that intercourse shall be prohibited with her unless she rescinded her decrees violating our neutral rights; and, in the event of her refusal so to do, I would refer the question back to the American people to decide what course they will then take.

The second proposition contained in this bill is to exclude the armed ships of both nations. This is a question on which there is a great diversity of opinion, and which, on account of its delicacy, it is extremely difficult to treat with that minuteness which its importance demands. I will endeavor, consistently with the feelings that are predominant in my breast, with the hope that the fortunate commencement of the late accommodation will eventuate happily, and that the rights and honor of each nation will be respected, to discuss this question calmly and without pre-

judice. I subscribe most heartily to the doctrine advanced yesterday, that the exclusion of the armed vessels of one belligerent, and the admission of those of the other, is an act of hostility. The principle is perfectly orthodox, and by the way, it does me pleasure to give the gentleman from New York (Mr. GARDENIER) credit for any orthodox doctrine he may happen to advance. He, with great propriety, illustrated his position by likening it to the case of two armies on the frontier of the United States contending with each other, and one being suffered to encamp within our limits while the other was excluded. So with regard to armed vessels. If the armed vessels of any one nation engage at sea with those of another, and fly to our port as a place of refuge, and we receive them while the others are excluded, it is an abandonment of our neutrality. We cannot permit a foreign nation to carry on war within our territorial limits, or take refuge from the attacks of superior force, and enjoy any immunities which are not equally extended to both belligerents, without such abandonment.

But it may be said, why did the United States assume such an attitude in relation to Great Britain? It is admitted that the proclamation was a hostile act. And why, sir, would you do away that measure caused by a series of hostile acts, which to this day have not been atoned? The proclamation was a hostile act preceded by one more hostile, which I am pleased to see placed in a train of settlement as it has been, because the spirit in which the offer of reparation was received, proves to the world that this country will be satisfied with even half justice. Our Government has not insisted on the punishment of the offender, or even that he shall be stripped of the honors with which he is clothed; and thus they have manifested that they are willing to accept of half reparation. It being conceded by gentlemen in opposition, that the exclusion of the armed ships of one belligerent, and the admission of those of another, would be war against the former, I wish to ask the House is it proper now to take that attitude towards France? Perhaps it may be said that we were last Winter in favor of taking that step. I answer this as I did before, that it was only after demand made, and refusal by France, that we would have consented to make war. I think it is not now proper, and for the same reason that I thought so at the last session of Congress; because we have not, since that time, received any information from France to enable us to determine what course will be pursued by the Government of that country in relation to the United States, and particularly consequent on the arrangement with Great Britain. We have a right to expect an adjustment with France when we recur to the Milan decree, which declares that, in the event of Great Britain receding from her Orders in Council, and unjust decrees, violating the rights of neutral commerce, that Bonaparte will follow the example. And, when we consider the effect which a settlement of our differences with France will have on our trade, and that we have nothing to expect from

war but the loss of all our commerce on the Continent, I think we ought not to plunge the nation rashly into it without affording to our Government an opportunity of knowing what determination has been made by the French Government in consequence of the antecedent measures of this. We are informed by the Message of the President that a vessel has been dispatched with communications to France; and, of course, it is naturally to be expected, and such, I presume, is the expectation of the Executive, that while he is sending the harbinger of peace and accommodation, we will not commit an act of hostility by discriminating between the armed vessels of the two nations, and especially when we know there has been a recent manifestation of an amicable disposition on the part of France. I refer to the permission to embargoed vessels to depart from French ports, and to the relaxation by the King of Holland of his decrees; for, though independent of France in name and form, he is not so in fact. Now, I ask whether it be proper, in a crisis like this, unauthorized by any information from France, at a time too when we look for communications from that country of a favorable complexion, to adopt any measure leading to war? What are the merchants to expect from a war with France? They are anxious for a trade to that country. It is there that they find a profitable market for colonial produce, tobacco, &c., it is upon the Continent of Europe alone, all the countries of which are either under the dominion of France, or satellites of Bonaparte, or in a state of war with him, that we find a market for these articles, and for flour, fish, &c. It is a notorious fact, that, notwithstanding the repeal of the embargo, and authorizing the departure of vessels for British ports, tobacco is only three or four dollars per hundred, whereas, when the continental market is open, it is twice that price.

But, sir, for what purpose do gentlemen wish this course to be pursued? Great Britain does not require it; it is not made a condition in the arrangement of Mr. Erskine. No mention is made of it. And is it necessary to do an act of courtesy to that nation which will involve us in war with another? Is it necessary, after the many proofs we have given of a disposition to accommodate with Great Britain, to compromise our peace and the interests of the country by giving a double assurance of it? I say that Great Britain does not ask or require it—it has not been required at any time. All that they have asked, is, to be placed on a footing of equal restrictions. Mr. Erskine says, in the correspondence, that the overture which he was instructed to make, was grounded on the knowledge that the United States were about to pass certain laws placing the belligerents in a state of equality, and not on the repeal of the embargo, as was yesterday said by a gentleman from New York. The rejection of the offer made through Mr. Pinkney by our Government last Summer was attributed by the gentleman (Mr. GARDNER) to the enactment of the embargo laws; but, the reason assigned for the overture by Great Britain, was, the passage of

laws which enforced the embargo, excluded British vessels, and interdicted commercial intercourse with her; for, such was the course we had then resolved upon. The gentleman has forgotten that we are three or four thousand miles separated from Great Britain; that they had not a knowledge of our proceedings, whereby we retraced our steps, and shrunk from the ground we had taken—proceedings which probably had not taken place at the time their messenger left England. For, after determining to enforce the embargo. (of which determination they had knowledge;) after passing a law for that purpose, which, I acknowledge, strained the Constitution to its greatest capacity; we turned about, without a pretext for it, and abandoned the embargo. All that was asked by Great Britain—all the ground on which the overture was made—was, that both the belligerents should be placed on an equality.

But, it may be said, that our re-enacting a part of this law, which otherwise expires by its own limitation at the end of the present session of Congress, will have an unfavorable aspect, and that it will display a hostile front towards her. This is an inference directly in the teeth of the fact; for, the most conclusive proof of that spirit of accommodation was contained in the proclamation of the President of the United States, which, I admit, was beyond the letter of the law, but was conceived in the spirit of it, and was evidence, therefore, as strong as proof of holy writ, that the Government of this country was desirous of meeting frankly, and with promptitude, any overtures tending to an honorable accommodation of our differences. By the by, the admission in form of French vessels within the waters under the jurisdiction of the United States is not much in substance; for, of the few vessels which have within a few years escaped the British fleets, and arrived within our waters, one was burned by the British, within our jurisdictional limits, on the coast of North Carolina. If proof be wanting of the spirit of the people in relation to the late accommodation, it may be found in their approbation of it, by the proposed meetings, on the 10th of June, in the newspapers, and in the effusions of our Congressional and pulpit orators; for, it was only last Sunday, that the minister officiating in this department offered up thanks for our release from the restrictions on our commerce, &c. I do not believe that gentlemen are correct in supposing that there is any difference of opinion on this subject. There may be a few individuals, American in name, but not in sentiment, who were opposed to the accommodation. We are a generous nation, sir, and soon forget injuries inflicted on us. We remember the good and forget the evil, and, like old friends who have fallen out in consequence of some bickerings, whether founded in reason or not, we are unwilling to permit the gratification with which we receive a renewal of friendship to be alloyed by any recollection of former differences. Although we feel this sensation—an honorable and rational feeling, characteristic of the American people—I hope in God that we shall beware not to abuse it by such

JUNE, 1809.

Non-Intercourse.

H. OF R.

extravagant joy. I should then regret it as a triumph, not of American principles, but of feeling over principle, prostrated by it.

I ask, why should we discriminate? I am sorry, that, in the investigation of this point, I am compelled to turn over a leaf on which, for one, I should rejoice that a tear could fall, and blot out the record forever. But, when gentlemen are desirous of changing the relations of this country, so as to bring us in hostility with France and alliance with Britain, it is necessary that we should look at the sins of each, to remember them, if only to enable us to preserve the neutral station which we ought to occupy. It is a delicate and painful task. I have no feeling adverse to friendship for Great Britain. I am willing to "be to her faults a little blind, and to her virtues very kind." But, when gentlemen wish us to discriminate, it is proper to inquire, what has France and what has Great Britain done? I shall not dwell long on the subject, because, if I do, I may be considered as contravening an opinion, which I most religiously entertain, that our differences should be forgotten, and that the two nations should be united in the bonds of friendship. But, notwithstanding all this, justice must not be strangled by feeling. What has France done? Plundered our property, to an enormous amount; burnt our vessels on the high seas; blockaded all the world, without any vessels of war to blockade any part of it; passed a decree which condemns all our vessels spoken by British cruisers; "consecrated the liberty of the seas" by adding confiscation to shipwreck, in the case of the vessel stranded at Morlaix; and imprisoned our seamen, after driving them into the interior. We have, therefore, just cause of war against her. What has Great Britain done? "I will" nothing extenuate, nor set down aught in malice." Sir, she has impressed and detained three thousand, and more, of our seamen; cut off the colonial trade under aggravated circumstances, which induced the mercantile interest (and particularly from that part of the country mostly opposed to the Administration) to remonstrate, and pledge their lives and sacred honor to resist the tyranny; she has blockaded a coast of a thousand miles in extent, without stationing any vessels which could have annoyed the entrance of the principal waters; she has cut off our trade from port to port belonging to the same or two nations, one or both of which were her enemies; she has committed the murder of a citizen (Pierce) within your waters; one of her officers has claimed jurisdiction within reach of his buoys in the harbor of New York; she has burnt the *Impetueux* on the shore of North Carolina, which in fact was an act of war waged in our territory against her enemy, which we could not, consistently with our relations with both nations, pass over with impunity; add to this black catalogue the outrage of Love and the affair of the Chesapeake, which (thank God) we may now forget; as likewise the late case of the *Melampus* firing on one of our vessels, and giving as an excuse that she thought it was a French privateer, which, had it been the case, would have been no

excuse, because, being within our jurisdictional limits, she would have been exempt from attack.

The affair of the Chesapeake, and the Orders in Council, are settled, or at least promised to be settled, and I confide in the promise. I am unwilling to enter with gentlemen into the dispute to what cause the removal of the Orders in Council is to be attributed; I regret that the inquiry has been forced upon us; I receive it now regardless of the motive. God be praised for so much! but there are a long catalogue of injuries existing antecedent to these, for which I hope we shall receive full and entire satisfaction. Are they not equal to the actual injuries inflicted by France? If the Emperor of France were to blockade the moon, by a decree issued from Vienna, Berlin, or elsewhere, merely to let posterity know that he was in character of a conqueror at such a place, it is but (as his decrees were called by a gentleman from Maryland, Mr. Key) mere *brutum fulmen*. I speak of their actual effects upon us. France, without a single ship that can float on the ocean without skulking from port to port, with all her decrees, has not done us more injury than Great Britain, before she issued any orders. The injuries which the latter has done to us, independent of this species, are great and numerous. They grind the fortunes and happiness of many to atoms—they touch the feelings and lives of thousands, till many die broken-hearted under the lash, are cast into the ocean, swallowed by the waves, food for the sharks, and are heard of no more, except in the wretched hovels of their widows and orphans who depended upon them for bread. It might as well be asked of Britain to surrender up all the seamen on board her vessels, as to ask of us to discriminate between her armed vessels and those of France. It would be answered to such a request on our part: No; the Governments are about to treat; let them enter into such friendly stipulation as may be conducive to the honor and interest of both.

Great Britain does not ask of us an exclusive admission into our ports, but only an equal attitude to be preserved. This is the language of Mr. Erskine here, of the British Government, of the Ministerial orators on the floor of Parliament and of Mr. Canning in his letter on the subject of the affair of the Chesapeake. He says that to exclude the armed vessels of either belligerent is a hostile act, but that to exclude all is not. I am willing to exclude them both; and am pleased with a proposition, made in the other branch of the Legislature, for a permanent exclusion of armed vessels from our waters. I will state a case. Suppose, during a war with the savages on our frontier, after they had invaded our territory and murdered our citizens, a party of our hardy backwoodsmen were to pursue them, and they were to retreat within the Spanish lines. Would it be possible to arrest our brave countrymen in an attempt to kill the enemy whilst they were carrying off some of their relatives prisoners, and scalps of others whom they had murdered? Would the charged rifle and tomahawk fall harmless at their feet the moment the line

was crossed over? No, sir; it is not in human nature to be arrested by artificial or nominal boundaries in the heat of action. So in the case of an engagement on our coast. The vessel of one belligerent engages that of another and kills many of her seamen; but, finding at length that she is inferior in force, retreats within our limits. Do you suppose, before the party which has suffered so much pursues her, that they will stop to take an observation and calculate the latitude and longitude? No, sir; blood will have blood, and there will be no end of it if you allow your waters to be a place of refuge for armed vessels. Let us then exclude all. If we admit them, and they commit offences against national law or our own statutes, within our waters, can we check them? Yes, call out our militia with rifles and tomahawks to attack a 74 gun ship. We might as well attempt to check the howling winds, the war of elements, the inundations of the Ohio, or the waters of the Mississippi. As well say, as Joshua did of old, "Sun, stand thou still upon Gibeon, and thou moon in the valley of Ajalon," as to attempt to eject a 74 gun ship by militia; and it seems to be determined that we shall not have an effectual naval force. I confess, sir, though heretofore somewhat of a navy man, I am almost a convert to the doctrine of the gentleman from North Carolina, (Mr. Macon,) that it is the rotten part of our system; and, that if some salutary regulation like this were adopted, we should not have much occasion for frigates in time of peace. If we have war and are attacked, I would be armed at all points; I would fight the shark at sea and the tiger on the land. But in peace I know of no better regulation than to exclude all armed vessels, except such as are admitted by express stipulation. And it appears to me to be for the interest of Great Britain to exclude them, because she has ports near us, and it was the ground on which Great Britain sent instructions to her Minister to negotiate. Suppose Joseph Bonaparte obtains peaceable possession of Spain, and that, in consequence of that event, a contest should arise between him and Great Britain about the Spanish possessions in South America. Would it not be a most material object with Great Britain to prevent the vessels of Spain, belonging then to her enemy, from taking refuge in our ports? Certainly it would. And this idea is the more striking, when we reflect on the possibility of a war carried on in that manner between those Powers in the adjacent colonies of America. Great Britain views the exclusion of vessels of war belonging to her, whilst others are admitted, as an evidence of hostility; the gentleman from New York urged the argument; and Mr Rose considered it so hostile as to preclude all negotiation till removed. If then it was considered by Great Britain an act of so hostile a character as to prevent accommodation, a case which she acknowledged to be "decidedly a wrong act," how may not this language be reverberated by Mr. Champagny, if this discrimination be made between Great Britain and France? You have by finesse, as gentlemen say, done away the interdic-

tory proclamation. Great Britain, in consequence of the equality produced, has thought proper to make that reparation which she declares she was at all times willing to make. Whilst this language is held by Great Britain, you ask of France to do us the justice under the operation of a measure which Great Britain declared the honor of that nation forbade her to do, when enforced against her.

And it may be said, that the exclusion of British vessels argues a want of confidence in Great Britain. I have no such want; I confide in her following up the course she has commenced till all difficulties are accommodated, because it is her interest to do so.

If our ports are open at all times to foreign armed vessels, it must unquestionably be oftentimes dangerous to us. Is it necessary to refer to examples in support of this? The case of Copenhagen is very recent and conclusive. If vessels of war of foreign nations may enter your ports without limitation as to number and time, the first evidence of hostile intention after they have entered, may be the conflagration of your towns, the destruction of their wealth, and the ruin of the inhabitants.

A gentleman from New York (Mr GARDENIER) yesterday claimed credit for himself and his friends for having softened the public temper. Let them have it; I am unwilling to dispute their claim; let them have the quiet enjoyment of it. But let us restrain those gentlemen, and soften the public laws, so as to permit them to wear a hostile front, till we are called upon to assume it by a regard to our own honor. Let us wait the result of the appeal to France, or the return of the vessel dispatched. This is the course I proposed to pursue at the last session, and which I wish to pursue now. And in what I say I am only expressing my opinion. I disclaim any title to being the "oracular organ" of the Administration. I am a Representative of a portion of the American people, and unwilling to have my rights invaded by an insinuation of that kind. It affords me pleasure at all times to agree with those with whom I have not always the honor to act. I hope, however, that I shall always possess independence of mind sufficient to act for myself, regardless of that consideration, and I wish it to be understood distinctly that the insinuation is incorrect; and that no repetition of it will prevent me from doing what I believe to be my duty. Denouncing a measure, as fostering "the cant of modern philosophy," will not make me abandon what I conceive interest, impartiality, and respect for our own character, require of us.

I have done, sir. I have made this representation to do away any imputation of hostility towards Great Britain. I deduce my inferences from documents and facts in the possession of the House and the nation; and whether we are expected or required to pursue this course or not, I believe it to be such as will promote the best interests of the country, and will preserve us in peace as long as it is attainable, or unite and justify us in war, if that must be the resort.

JUNE, 1809.

Proceedings.

H. OF R.

Mr. RANDOLPH commenced a speech, but a question arising on a point of order, and some irritation being caused by it, after a reversal by the Committee of the Chairman's decision on the point of order, the Committee rose and reported progress, and at three o'clock the House adjourned till Monday.

MONDAY, June 5.

Two other members, to wit: EZEKIEL WHITMAN, from Massachusetts, and RICHARD WINN, from South Carolina, appeared, produced their credentials, were qualified, and took their seats in the House.

A message from the Senate informed the House that the Senate having been informed of the death of the Honorable FRANCIS MALBONE, one of the Senators from the State of Rhode Island, have directed the same to be communicated to this House.

On motion of Mr. POTTER,

Resolved, unanimously, That this House will attend the funeral of FRANCIS MALBONE, Esquire, late a member of the Senate of the United States.

Resolved, unanimously, That this House do wear mourning on the left arm for the space of one month, in testimony of their respect for the memory of the deceased.

TUESDAY, June 6.

Another member to wit: WILSON C. NICHOLAS, from Virginia, appeared, produced his credentials, was qualified, and took his seat in the House.

Mr. BASSETT, from the joint committee appointed to inquire and report what business it is requisite should be done by Congress in their present session, made a report thereon; which was read, and ordered to lie on the table.

On motion of Mr. LEWIS,

Ordered, That the following petitions, to wit: Of the Common Council of Alexandria, presented on the twenty-first of November last;

Of the President and Directors of the Washington Bridge Company, presented on the ninth of December last;

Of the Protestant Episcopal Church in the City of Washington, presented on the fifteenth of December last;

Of the Commissioners of the Levy Court of Washington county, in the District of Columbia, presented on the fifteenth of December last;

Of the Presbyterian Congregation in Alexandria, presented on the tenth of January last;

Of the Episcopal Church in Alexandria, presented on the eighteenth of November last; and

Of the Washington and Alexandria Turnpike Company, presented on the twenty-second of November last; be severally referred to the Committee for the District of Columbia.

Mr. SOUTHARD presented a memorial from the manufacturers of hats in the township of Woodbridge, in the State of New Jersey, to the same effect with a petition of the manufacturers of hats

in Fredericktown, State of Maryland, presented on the twenty-fifth ultimo.

Mr. NELSON presented a memorial of the manufacturers of hats in Hagerstown, State of Maryland, to the same effect with the memorial last stated.

Ordered, That the said memorials be severally referred to the Committee of Commerce and Manufactures.

A motion was made by Mr. SAWYER, that the House do come to the following resolution:

Resolved, That a standing committee be appointed, to be called "The Committee of Manufactures," whose duty it shall be to take into consideration all such petitions, matters, and things, touching the manufactures of the United States, as shall be presented, or shall or may come in question, and be referred to them by the House, and to report from time to time their opinion thereon.

The resolution was read, and ordered to lie on the table.

On motion of Mr. NELSON,

Resolved, That the communications of the President of the United States, on the subject of the road from Cumberland, in Maryland, to the Ohio, received on the nineteenth of February, one thousand eight hundred and eight, and on the twenty-third of December last, with the accompanying documents, be referred to a select committee; with leave to report by bill or otherwise.

Ordered, That Mr. NELSON, Mr. NICHOLAS, Mr. WINN, Mr. LYON, and Mr. MORROW, be appointed a committee pursuant to the said resolution.

Mr. FISK presented a petition of Andrew Foster and Jacob P. Giraud, merchants of the city of New York, stating that, in the month of January last, their ship called the Clara, sailed from New York to New Orleans, and that, after her clearance, and without their knowledge, the master took on board two negro slaves, and landed the same in New Orleans, in violation of the act passed the second of March, one thousand eight hundred and seven, and that, in consequence thereof, the said vessel has been libelled and condemned as forfeited to the United States, and praying a restitution of the same, or such provision in the case as, to the wisdom of Congress, shall seem just and proper.—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. LEWIS, the petitions of the President and Directors of the Commercial Company of the city of Washington, and of the President and Directors of the Bank of Alexandria, presented on the eighth and twentieth of December last, were referred to the Committee for the District of Columbia.

A motion was made by Mr. LEWIS, that the House do now proceed to the consideration of a resolution proposed by him on the thirty-first ultimo, relative to a removal of the Military Academy from West Point to the city of Washington: And the question being taken thereupon, it was determined in the negative.

Mr. HELMS, from the committee to whom was referred the petition of John Heard, presented a bill authorizing the discharge of John Heard

H. OF R.

Foreign Relations.

JUNE, 1809.

from his imprisonment; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. HELMS; from the same committee, also presented a detailed report; which was read, and referred to the Committee of the Whole last mentioned.

Mr. RANDOLPH, from the committee appointed on the thirty-first ultimo, presented a bill authorizing a summary mode of proceeding against marshals and their deputies who have received money by virtue of executions issued from the courts of the United States; which was read twice, and committed to a Committee of the Whole on Thursday next.

The SPEAKER laid before the House a letter and report from the Secretary of War, of the sums necessary to complete the fortifications commenced or contemplated, and of the amount of any deficiency of former appropriations for this object, made in obedience to a resolution of the twenty-seventh ultimo; which was read, and referred to the committee on so much of the President's Message as relates to the Military Establishment.

A message from the Senate informed he House that the Senate have passed a bill, entitled "An act to fix the time of the next meeting of Congress;" to which they desire the concurrence of this House.

A motion was made by Mr. GARDENIER that the House do come to the following resolution:

Resolved, That it is expedient that all such provisions in the several acts which relate to the laying and enforcing the embargo, and prohibiting foreign armed vessels from entering the ports and harbors of the United States, and for prohibiting intercourse between the United States and Great Britain and France, and their dependencies, as ought to be kept in force, should be reduced into one act, and that a committee be appointed to bring in a bill for that purpose.

And on the question that the House do proceed to the consideration of the said resolution, it was determined in the negative.

The House resolved itself into a Committee of the Whole on the bill authorizing the appointment of an agent for the land office at Kaskaskia, and allowing compensation to the commissioners and clerk; and, after some time spent therein, the bill was reported with several amendments thereto; which were twice read, and concurred in by the House.

Ordered, That the said bill with the amendments, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill to continue in force an act declaring the assent of Congress to a certain act of the State of South Carolina, passed the twenty-first of December, one thousand eight hundred and four. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole, on the bill supplementary to an act, entitled "An act making appropriations for car-

rying into effect a treaty between the United States and the Chickasaw tribe of Indians," and to establish a land office in the Mississippi Territory. No amendment being made, the bill was ordered to be engrossed, and read the third time to-morrow.

Mr. EPPES, from the Committee of Ways and Means, reported a bill supplementary to an act entitled "An act making further provision for the support of public credit, and for the redemption of the public debt."—[This bill is reported according to the recommendation of the Secretary of the Treasury, to explain the act authorizing the borrowing of money, if necessary, to discharge the annual instalments of the public debt.] Twice read and committed.

Mr. PITKIN, after some observations on the state of the Treasury, and the necessity of diminishing the expenses of Government, moved

"That the Committee on the Naval Establishment be instructed to inquire into the expediency of selling such of the gunboats belonging to the United States as are not necessary to be employed in actual service."

On motion of Mr. MACON, Mr. PITKIN's motion was so modified as to insert the words "*public armed vessels and*" before the word "*gunboats*," and, after a short debate between Messrs. CUTTS, DANA, LYON, RANDOLPH, MACON, and TROUP, agreed to—ayes 70.

On motion of Mr. J. G. JACKSON the Committee of the Whole was discharged, unanimously—yeas 130—from the further consideration of the bill for amending and continuing in force the non-intercourse, &c., and it was recommitted for amendment.

FOREIGN RELATIONS.

A motion was made by Mr. GARDENIER that the House do come to the following resolution:

Resolved, That the committee to whom was referred so much of the President's Message as relates to intercourse with foreign nations, be instructed to bring in a bill to reduce into one act all such provisions of the several acts which relate to the laying and enforcing the embargo, and for prohibiting foreign armed vessels from entering the ports and harbors of the United States, and for prohibiting intercourse between the United States and Great Britain and France, and their dependencies, as ought to be kept in force.

And, on the question that the House do now proceed to the consideration of the said resolution, it was determined in the negative—yeas 59, nays 66, as follows:

YEAS—Ezekiel Bacon, William Baylies, Daniel Blaisdell, James Breckenridge, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Samuel W. Dana, John Davenport, junior, William Ely, James Emott, Barent Gardenier, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Robert Jenkins, Philip B. Key, Herman Knickerbacker, Joseph Lewis, junior, Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Nathaniel Macon, Robert Marion, Vincent Matthews, Archibald McBride, Pleasant M. Miller, William Milnor, Thomas Moore, Jeremiah

JUNE, 1809.

Proceedings.

H. OF R.

Morrow, Jonathan O. Mosely, Thomas Newton, John Nicholson, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, junior, Elisha R. Potter, Josiah Quincy, John Randolph, Daniel Sheffey, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, junior, William Anderson, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Howell Cobb, James Cochran, James Cox, William Crawford, Henry Crist, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Barzillai Gannett, Thomas Gholson, junior, Peterson Goodwyn, William Helms, James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, Walter Jones, Thos. Kenan, William Kennedy, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, John Montgomery, Nicholas R. Moore, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Samuel Shaw, George Smith, John Smith, Samuel Smith, Henry Southard, John Taylor, John Thompson, Uri Tracy, Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.

The bill sent from the Senate, entitled "An act to fix the time for the next meeting of Congress," was read twice, and committed to a Committee of the Whole to-morrow.

WEDNESDAY, JUNE 7.

Another member, to wit: ERASTUS ROOT, from New York, appeared, produced his credentials, was qualified, and took his seat in the House.

On motion of Mr. LEWIS, the petitions of Samuel Carson, of Alexandria, and of sundry inhabitants of Washington county, in the District of Columbia, presented on the tenth and nineteenth of January last, were referred to the Committee for the District of Columbia.

Mr. SOUTHARD, from the Committee of Revision and Unfinished Business, made a further report, in part, of such matters of business as were depending and undetermined at the close of the last session of Congress; which was read and ordered to lie on the table.

Mr. BURWELL, from the committee appointed on that part of the Message from the President of the United States which relates "to the fortifications of our seaport towns," presented a bill making further appropriations to complete the fortifications commenced for the security of the ports and harbors of the United States, and to erect such fortifications as may be necessary for the protection of the Northern and Western frontiers of the United States; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. HOWARD presented a petition of sundry manufacturers of hemp into linen, residing in the State of Kentucky, praying that such addi-

tional duties may be imposed by law upon the importation of hemp and coarse linens from foreign countries, as will effectually encourage the manufacture of those articles within the United States, and prevent their introduction into the United States from abroad.—Referred to the Committee of Commerce and Manufactures.

Mr. EPPES, from the Committee of Ways and Means, presented a bill making appropriations for defraying the expense of stationery, printing, and all other contingent expenses of the Senate and House of Representatives, during the present session of Congress; which was read twice, and committed to a Committee of the Whole to-morrow.

An engrossed bill supplementary to an act, entitled "An act making appropriations for carrying into effect a treaty between the United States and the Chickasaw tribe of Indians," and to establish a land office in the Mississippi Territory, was read the third time, and passed.

An engrossed bill authorizing the appointment of an agent for the land office at Kaskaskia, and allowing compensation to the commissioners and clerk, was read the third time, and passed.

An engrossed bill to continue in force an act declaring the assent of Congress to a certain act of the State of South Carolina, passed the twenty-first of December, one thousand eight hundred and four, was read the third time and passed.

Mr. LOVE having made some observations on the uncertainty with which any committee would now present business to the House until some decision was had as to the time at which Congress should adjourn, moved the following resolution, with a view to regulate the conduct of a committee of the House in preparing business:

Resolved, That the Committee on the District of Columbia be instructed to report what subjects referred to them it will be necessary to act on during the present session."

After some opposition from Messrs. PITKIN, SMILE, BIBB, DANA, and BASSETT, on the ground of the propriety of shortening the session, instead of extending it, and reply by Messrs. LOVE and VAN HORN, the motion was negatived.

Mr. DANA reported a bill for the benefit of the seamen of the United States. [This bill requires the mate, and at least a majority of the mariners on board any vessel, to be citizens of the United States, in order to entitle the vessel to the benefits of a vessel of the United States; and prescribes various amendments to the navigation laws of the United States, so as to accommodate them to the proposed regulation.] Twice read and committed.

Mr. LEWIS asked (the fourth time) for the consideration of the resolution for appointing a committee to inquire into the propriety of removing the Military Academy from West Point to Washington. On the question for considering it, thirty-two gentlemen only rose in the affirmative.

Mr. LIVERMORE, with a view of limiting the business to be done during the session, moved "that no petition of a private nature shall be received by this House after Monday next, during

the present session of Congress." This motion was opposed by Mr. J. G. JACKSON on the ground of inexpediency as well as unconstitutionality; for he contended that the Constitution, securing the right of the people peaceably to petition for a redress of grievances, prohibited the House from refusing to receive their petitions. It was replied by Messrs. LIVERMORE and GOLD that it might as well be urged, from the Constitution, that Congress should never adjourn while a petition or grievance could be offered to the House; that the petitions would be in fact merely laid on the table, which was the ordinary course of every day. The motion was negatived by yeas and nays—yeas 17, nays 104.

Mr. EPPES, from the Committee of Ways and Means, reported a bill making an appropriation for defraying the expenses of stationery, printing, &c., for the two Houses of Congress during the present session.—Twice read and committed.

Mr. SAWYER called for the consideration of his resolution, laid on the table yesterday, for appointing a standing committee to be called the Committee of Manufactures. The House refused to consider it—yeas 35.

AMERICAN MANUFACTURES.

The House proceeded to consider the resolution proposed by Mr. BACON, on the thirty-first ultimo, to wit:

Resolved, That the Secretary of the Treasury be directed to prepare and report to this House, at their next session, a plan for the application of such means as are within the power of Congress, for the purpose of protecting and fostering the manufactures of the United States; together with a statement of the several manufacturing establishments which have been commenced, the progress which has been made in them, and the success with which they have been attended; and such other information as in the opinion of the Secretary shall be material in exhibiting a general view of the manufactures of the United States.

Mr. BACON remarked that if the House had any disposition to do anything towards the advancement of manufactures of the country, the proper course would be to call for information on which they could act, as proposed by the resolution. For himself, however desirous to aid manufactures without information on which he could rely, he did not feel himself prepared to act.

Mr. LYON remarked that twenty years ago a similar reference of the subject had been made to the Secretary of the Treasury, and a long report had been received, on which no proceedings were had. And this would be the case with the proposed report. It was intended but to allay by procrastination the little zeal which was now displayed by some members in favor of manufactures. If nothing was done now, he said he should despair of anything ever being done to encourage manufactures; and this motion was evidently intended to give the subject the go-by.

Mr. LYON moved to amend the resolution by striking out the words "at their next session," the time at which the Secretary of the Treasury is directed to report to the House a plan for the

encouragement of manufactures; with a view to make the resolution obligatory on the Secretary to report during the present session.

The motion was negatived without a division.

Mr. VAN HORN moved to amend the resolution by striking out all that part requiring the Secretary of the Treasury to report a plan. He stated his reasons to be that he wished not to vote upon a plan reported by any Head of Department, however great confidence he might have in them; for he thought the House were competent themselves to originate a plan. He feared too that some plan might be proposed which would injure the agricultural interest; and the weight of a recommendation from so respectable an authority he well knew. He thought that Congress could themselves, by amending and regulating duties and drawbacks, sufficiently encourage manufactures, without any specific plan being laid down.

Mr. BACON said it had long ago been decided in this Government that when a call was made for information on the Heads of Departments, it was also within the rules of correct proceeding to require the officer so called upon to prepare and digest a plan on the subject on which information was called for. And he feared no injury which would result from such a course, though much good might.

After some observations from Messrs. QUINCY and DANA, against the amendment, and Mr. BIBB in support of it, Mr. VAN HORN's motion was negatived, yeas 19.

Mr. KENNEDY having called for the yeas and nays, on the passage of the resolution—

Messrs. GARDENIER and RANDOLPH opposed it at length, on the general ground of the inexpediency of legislative interference for the encouragement of manufactures; each gentleman appearing to consider it as a pledge, or commencement of a system, for fostering manufactures by legislative acts.

Mr. QUINCY supported it, as calling for information on which the House might legislate; as they could not properly legislate on any subject without information.

The question was then taken to agree to the said resolution, as originally proposed, and resolved in the affirmative—yeas 93, nays 38, as follows:

YEAS—Lemuel J. Alston, Willis Alston, junior, William Anderson, Ezekiel Bacon, William Baylies, David Bard, Adam Boyd, James Breckenridge, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John C. Chamberlain, William Chamberlin, Martin Chittenden, Matthew Clay, John Clopton, Orchard Cook, James Cox, William Crawford, Henry Crist, Samuel W. Dana, John Dawson, Joseph Desha, James Emott, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, junior, Peterson Goodwyn, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, Thomas Kenan, Philip B. Key, Herman Knickerbacker, Aaron Lyle, Robert Marion, Archibald McBride, Samuel McKee, Alexan-

JUNE, 1809.

Massachusetts Contested Election.

H. OF R.

der McKim, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Wilson C. Nicholas, Joseph Pearson, Benjamin Pickman, junior, Timothy Pitkin, junior, John Porter, Josiah Quincy, John Rhea of Tennessee, Matthias Richards, Erastus Root, John Ross, Ebenezer Sage, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Daniel Sheffey, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, Benjamin Tallmadge, Uri Tracy, George M. Troup, Robert Whitehill, James Wilson, Richard Winn, and Robert Witherspoon.

NAYS—Burwell Bassett, William W. Bibb, Daniel Blaisdell, John Campbell, Epaphroditus Champion, Howell Cobb, James Cochran, John Davenport, junior, William Ely, Barent Gardenier, Charles Goldsborough, Jonathan H. Hubbard, Walter Jones, William Kennedy, Joseph Lewis, junior, Edward St. Loe Livermore, Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Jonathan O. Mosely, John Nicholson, Peter B. Porter, Elisha R. Potter, John Randolph, John Rea of Pennsylvania, John Roane, Thomas Sammons, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, John Taylor, John Thompson, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and Ezekiel Whitman.

THURSDAY, June 8.

Mr. NELSON, from the committee appointed on the sixth instant, presented a bill in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. LOVE, from the Committee for the District of Columbia, presented a bill to amend the charter of Alexandria; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. GARDNER presented petitions from sundry manufacturers of salt, within the State of Massachusetts, praying that a duty be imposed by law on the importation of salt from foreign places.

Mr. MILNOR presented a petition from the manufacturers of hats residing in the borough of Lancaster, State of Pennsylvania, to the same effect with a petition of the manufacturers of hats in Fredericktown, State of Maryland.—Referred to the Committee of Commerce and Manufactures.

The **SPEAKER** laid before the House a report from the Secretary of the Navy, upon the subject of the gunboats belonging to the Navy of the United States, made in obedience to a resolution of the 26th ultimo.—Referred to the committee appointed on that part of the Message from the President which relates to the Naval Establishments.

The bill sent from the Senate, entitled "An act to suspend, for a limited time, the recruiting service," was read twice, and referred to the committee appointed on that part of the Message from

the President of the United States which relates to the Military Establishment.

A communication was received from the Secretary of the Navy, in pursuance of a resolution of the House of the 26th ultimo, requiring an account of the actual expense of the equipment of gunboats, as well as a statement of their number, and the time that they have been actually employed.—Referred to the Committee on Naval Establishments.

CONTESTED ELECTION.

Mr. FINDLEY, from the Committee of Elections, to whom were referred, during the present session, the petition of Charles Turner, Jr., and petitions from sundry inhabitants of the district of Plymouth, in the State of Massachusetts, contesting the election of William Baylies, returned to serve as one of the members of this House for the said State, made a report thereon; which was referred to a Committee of the Whole on Monday next. The report is as follows:

"That they have, according to order, examined the petitions and the documents which accompany them. The petitions, signed by 1,231 inhabitants of the district, state that, at an election held for a member of Congress for the district of Plymouth, in the State of Massachusetts, agreeably to the law of that State, directing the time, place, and manner, of electing members of Congress, on the first Monday of November, 1808, the whole number of votes given was 3,719, of which, agreeably to the laws of that State, 1,860 were necessary to make a choice. Of these there were given for Charles Turner, Jr., Esq., 1,443 votes, and for Charles Turner, Esq., 430 votes, amounting, if for the same candidate, to 1,873, which, being a majority of the whole number of votes, decided the election in favor of Mr. Turner, the candidate for whom the petitioners claim the seat, if he was the same person intended to be voted for, by the name and addition of Charles Turner, Jr., Esq., and Charles Turner, Esq. The petitioners assert that Charles Turner, in whose behalf they claim the seat, is the same person, for whom the votes were given, with the additions of Esq. and Junior, Esq.; and in proof of this, they assert that the laws of Massachusetts direct that the candidates voted for must be inhabitants of the district for which they may be elected, and that there was no other person legally qualified to be a candidate for a seat in Congress, inhabiting that district at the time of the election; but the same Charles Turner, for whom the petitioners claim the seat in Congress.

"These assertions of the petitioners are proposed to be supported by testimony taken after due notice given to the sitting member, which have been admitted by the Committee, as correctly taken, but not acted on with respect to the merits of the case.

"It appears that, by a law of Massachusetts, the Executive of that State decides on the election of members of Congress, and certifies the return; and that, in this instance, the selectmen, who appear, by the laws and customs of that State, to be official election officers in their respective towns or districts, had set down the votes received for Charles Turner, Jr., Esq., and for Charles Turner, Esq., separate from each other; and that the Executive, in deciding on the election, had considered the votes as given for different candidates, and that, on this supposition, none of the candidates

had a majority of the whole number of votes given, and therefore directed that another election should be held in Plymouth district, on the 19th of January, 1809, at which the sitting member had the majority of votes; and, in consequence of which, he was returned to Congress, by a certificate signed by the Governor.

"Before the committee examined maturely the document, or deliberated on the merits of the case, the sitting member requested a postponement of the decision until the next session of Congress; in support of which he alleged, that it is necessary to a full and fair investigation of the case, and to acquaint himself with the facts, and to be able to produce all the evidence material to a correct decision of the question; that he was notified that his election would be contested but a short time previous to the meeting of Congress, and that he considered depositions taken without the direction of the House or their committee as taken without authority of law; that these circumstances prevented him from preparing himself in such a manner as to be able at this time to do justice to the cause, or to those who had honored him with their suffrages.

"Without examining the merits of the case, the question was taken in the committee, on the request of the sitting member, to have the decision postponed for the reasons hereinbefore stated, and carried in the affirmative."

FORTIFICATIONS.

On motion of Mr. BURWELL, the House resolved itself into a Committee of the Whole, on the bill to make appropriations to complete the fortifications commenced for the security of the ports and harbors of the United States, and to erect such fortifications as may be necessary for the protection of the Northern and Western frontiers of the United States.

Mr. BURWELL moved to fill the blank in the bill, for the sum to be appropriated, with the words *one hundred and fifty thousand dollars*. He said he deemed it proper to observe, that by referring to the letter of the Secretary of War, it would be found, that, of \$50,000 appropriated, there remained unexpended, \$185,000. The sum of \$150,000, in addition to this, would make about \$335,000 for the expenditure of this year. At the last session of Congress, when the situation of the country was extremely different from what it now was, only the sum of \$450,000 had been appropriated; so that \$150,000 would not, with the surplus remaining unexpended, be too little for the service of the remainder of this year. And on the other hand, as it was contemplated to retrench somewhat the expenses of the Military and Naval Establishments, it would not exceed the general estimate of the expense of defensive operations for the present year. From the movements among the Indians, and the resolutions of the Legislature of Kentucky, calling on the Government for the erection of fortifications on the Western and Northern frontier, it had been thought proper to give the President a discretionary power to erect new fortifications there. It would scarcely be necessary to say anything to the House on the propriety of finishing those already commenced. Were Congress to stop at this time, it would be very evident that they would tumble into ruins,

and the money so expended would in fact be thrown away.

Mr. HOLLAND said he was certainly opposed to filling the blank in the bill with so large a sum. It was generally allowed that we should stand in need of all the money in the Treasury, and not a single cent ought to be appropriated but for matters of the first necessity. Where was the necessity of appropriating so large a sum of money to complete the works already begun? If it was necessary to complete them, he conceived that there was a way in which they could be erected at a less expense than at present, and that was, by the standing force of the country. There were upwards of six thousand troops in the service of the United States, who passed their time in perfect idleness—why had not a part of their time been devoted to this object? They certainly could not be better employed. A small portion of the time of the soldiers thus employed would conduce to their health; it would also reconcile the people to the military, and contribute to do away the odium attached to them. Mr. H. concluded by moving to fill the blank with \$15,000, which, with \$185,000 unexpended, would make \$200,000—sufficient to expend before the next meeting of Congress.

Mr. COOK was in favor of a larger sum than that proposed. He did not know that the military were not already employed on fortifications; but, even if they were, the expenses for materials were much greater than the expense of workmanship. The best mode of preventing war, he said, would be to be prepared for it. And, if not, should our preparations be now relaxed, until we had better assurances of peace with foreign nations? He hoped not.

Mr. FISK said he found, by the report of the Secretary of War, that the sum of \$750,000 would be sufficient to cover the expenditures of the present year, and, most probably, to complete the fortifications already commenced. It was now said by the chairman of the committee, (Mr. BURWELL,) that only \$150,000 were now wanted. Mr. F. said it surely would not be necessary for him to remark, that the season for carrying on the works would have expired at the commencement of the next session of Congress, and that whatever could be expended in the present year must be before the next meeting of Congress. He was in favor of the sum called for by the Secretary of War, viz: \$750,000. He observed that he spoke from his own knowledge, when he said that the United States embarrassed their agents and contractors for the public works by the scanty appropriations which they made. The fortifications of New York had been commenced, as was justly observed, on an enlarged and permanent plan. What had given rise to this extension of the plan? Danger of war, certainly. And had the storm of war already subsided? And should fortifications be abandoned because there was a hope that it might blow over? He said he too believed it the best policy of the nation, in peace, to make preparations for war. It was the wish of the nation that the country should be fortified. The Secre-

JUNE, 1809.

Fortifications.

H. OF R.

tary had called for \$750,000 for the present year. If \$150,000 only were appropriated, it would amount to an abandonment of the works already commenced: the artists employed must be discharged, and it would be almost impossible to get them together again. It did not follow, that, if \$750,000 should be more than necessary, the money would be drawn from the Treasury. On the contrary, there was now an unexpended balance of \$185,000, remaining in the Treasury, of the last appropriation. He moved to fill the blank with \$750,000.

[At this moment a bill was received from the Senate, making an appropriation for fortifications, &c.]

The Committee rose, and the bill from the Senate was committed to the same Committee, which immediately took it into consideration.

[The bill appropriates \$750,000 for completing the fortifications commenced, and erecting new fortifications on the Northern and Western frontiers.]

Mr. NEWTON moved to amend the bill by inserting the *Eastern* between the words *Northern* and *and*, with a view to the erection of fortifications in Virginia and elsewhere.—Negatived.

Mr. BURWELL moved to strike out *seven*, and insert *one hundred and fifty*, &c. This motion was negatived in the Committee; and the bill having been reported to the House, it was renewed.

Mr. ROSS said he was not disposed to let this question pass without expressing his ideas upon it. He was opposed to striking out the sum proposed, because he apprehended that it would not be more than adequate to the purpose for which it was designed. He apprehended that there was a wide difference between parsimony and true economy; that parsimony tended to destroy those institutions which a wise policy ought to foster; that economy was calculated to keep them in proper action. He did not suppose that it would be economy in a farmer to fence his fields but half round. If a farmer, sitting down to calculate the expense of rails, should, in order to avoid expense, appropriate only half the sum necessary, and thereby prevent the fence from being placed in good order, he apprehended that it would not be pursuing good economy, because the design for which the fence was made would not be accomplished. Parsimony in a Government, with regard to institutions for the protection of the rights and safety of a country, might destroy it. It had been said that there was no immediate occasion for fortifications to be placed in complete repair, or placed in a state of perfection, and therefore gentlemen would omit to do so at present. Would that be pursuing a prudent policy? Would a wise government adopt that policy on other occasions? What was the universal conduct in cities where a wise policy was pursued? To guard against fire, the inhabitants furnished themselves with engines, fire-buckets, and every preparation necessary for extinguishing it. Did they wait till there was occasion to use them? Would it be prudent in them so to do? He apprehended not. Apply the force of

this reasoning to the observations of gentlemen against now completing the fortifications. Mr. R. said he would, on this occasion, be for placing the country in complete safety, as far as fortifications could do it; and, after fortifying every point in which the country was vulnerable, he would pray to God, that we might never have occasion to make use of them, just as he would in relation to fire engines and buckets, prepared for the protection of a city from fire. It had been said that, if this money should be appropriated, it would no doubt be expended in the course of the Summer, but that a much less sum might be expended in such a way as to be productive of beneficial purposes. If these fortifications had been commenced, and the sum mentioned in the bill was necessary to complete them, he asked in what way they could be completed short of that sum? Was it intended that the work should be stopped by a contracted appropriation? Or that the appropriations should be so narrowed as to destroy the original design with which the fortifications were undertaken? Surely not; but such would be the effect of restricting the appropriation. He, therefore, hoped the House would grant the sum mentioned in the bill as the smallest possible sum that ought to be expended on this occasion.

Mr. GARDENIER said he had no fear that the House would agree to the motion, because the Government was pledged as completely as a Government could be pledged, to fortify the ports and harbors of the United States. Applications had been made to this House for that purpose for several years, but without effect, because, in a time of profound peace, and when no danger was apprehended, it had been deemed unnecessary to fortify the ports and harbors. At length, however, there had appeared a speck of war in the horizon; danger lowered around, and the Government of the United States gave its attention to this object, so vitally important. A million was appropriated the Winter before the last, and the Government was not content merely with appropriating for fortifications; but that the seaport towns and harbors might be effectually defended, that they might have the benefit of all that which experience sanctioned as safe, and that which theory seemed to propose as much better than the other, there was a large sum of money appropriated for gunboats, not for the purpose of encouraging the Navy of the United States, but for the protection of the ports and harbors of the United States; to come in aid of the batteries on shore. Now can it be possible that this Committee will hesitate about allowing the sum expressed in the bill from the Senate, at a time when all, I presume, have come to the conclusion that we are to dispense with the auxiliary aid of our gunboats? A year ago, so great an object was the defence of the seaports, that not only gunboats, but fortifications also, were promoted. Now that the gunboats are taken away, and the style of expenditure is to be changed, is it not a total abandonment of that object to which the Government has pledged itself? I think it is, and argues a capriciousness which would ill

become a Government, and which would deprive it of that confidence of the people which is so necessary to its support. Or, are we about to act upon the very unwise and short-sighted policy, that, because the danger has disappeared, therefore we are never to expect danger again? If the fears of that period of which I spoke had been realized, the ports and harbors of the United States being without fortifications, what would then have been their situation? How much cause would there not have been to regret that the business of fortifications had not been taken up in due time! Instead of relaxing our attention to that object, now is the time to proceed. If we wait until we have war, we cannot fortify to any good effect; it will be locking the stable door after the horse is stolen. Now is the favored time for completing the work, because it can be done effectually, with coolness, and without apprehension of invasion. If we now refuse, we shall be much in the situation of a man who finished his house all but the roof; and when asked by a neighbor why he did not complete it, the reason he gave was, that when it was pleasant weather he did not want the roof, and when it rained he could not build it; and yet, sir, no man will say that he was a very wise man. It is a short-sighted policy which leaves the country undefended, because at the moment there is no danger, and under an idea that there is never afterwards to be any danger. But it is fortunate for the country, at least for that portion of it which I represent, that the ice has been broken, that the great bulk of expense has been gone into. Fortifications have been commenced upon a pretty liberal scale. I do remember very well that when this question was agitated before, and other gentlemen wished that the appropriations should far exceed the sum actually agreed to, it was then said by those who were not for giving all that we asked, that they would give sufficient to commence the work upon a liberal scale. It was frequently said that more money than was granted could not be expended within the year, and that there was no necessity to appropriate more; but a promise was held out to us, that if we would be content with that appropriation, further appropriations should from time to time be made. Now, when we want this appropriation of seven hundred and fifty thousand dollars, we are told that we shall have one hundred and fifty thousand dollars; and it will then turn out that all the money which has been expended will have been expended for no purpose, unless a future Congress shall complete the fortifications at a much greater expense after they have been exposed to all the effects of the weather, natural decay and neglect. The people of the city of New York in particular have an eye on this subject which cannot be averted from your deliberations, and look to your acts with an anxiety which I cannot express, and with a claim upon your justice which no gentleman in the House can resist. From that city of New York perhaps one-third of the money which flows into the Treasury of the United States is derived. From its being in this respect so ser-

viceable it has a right to protection. As good economists it becomes the Government of the United States to take especial care that the source of revenue shall be secure. If we listen to the demands of justice, on the one hand, or the dictates of a wise economy on the other, the result will be the same. It has been said by some that the danger even now is not past. With politicians of that description, the argument must be naturally as strong to go on with fortifications as it ever has been, provided that the proper incentive to go on is danger. If Great Britain is insincere, and if appearances are illusory; if, in our actual position, there be little change, I call upon all gentlemen who think so to act up to their opinions, and to protect us against the danger which they themselves, at the present moment, continue to apprehend. But as to others, who can see that all works of this kind can be prosecuted and finished in time of peace, I call upon all such to come forward and protect this great and increasing source of revenue to the United States.

In fact, sir, in reflecting on this subject, I am at a loss to comprehend why there is any difficulty. We know that fortifications are of essential service to the defence of the coast and of the seaports particularly, because the great danger to be apprehended from any enemy is a predatory war. Until the French can find their way across the water there is little fear of any invasion that shall endanger the safety of the country. If we have war, plunder will be the object of our enemy, and the cities, the rich depots, will be the points at which they will make a dash. They will destroy the shipping, the banks, the capital, which produces to the United States such great interest, and all that is valuable in the cities. Whenever an attempt is made to invade the country with a view to subjugation, the whole body of the militia must be called out. I do not look upon even an attempt of this kind as probable. The war in which we must be engaged, if in any, will be one in which the seaports will be attacked; and, if successfully, they will enrich the enemy with new means of assailing you, and deprive you of that defence which you have. The defence of the country may be made at the expense of very little money, comparatively speaking. It was upon the principle of doing everything possible to be done for this protection that I was in favor of gunboats. Though I could not see the use of those machines, yet with all that humility which we all feel for great and philosophic men, I thought they might be of service. Other gentlemen voted for them because they had confidence in them. Now, it seems, we are going to sell them. You have withdrawn this sum of one million seven hundred thousand dollars (I believe that is the gross amount of expense incurred for gunboats) from the protection of the seaports and harbors—and will you give nothing to replace what you have taken away? If you give up one set of machines, either give the cities the value of them in another species of defence, or abandon them to their fate altogether. Let us know what

JUNE, 1809.

Fortifications.

H. OF R.

you will do with us. If you are taking thus much from us, do not drive us to despair by giving us nothing. Or is the policy of fortifying our ports and harbors changed? If it be, let us know it, for our rights are so strong, justice is so imperative that the Government ought to fortify us. If not, the State of New York has means, and it will do it. It is not in New York a question of party; it is one in which the State is so much interested as to obliterate the lines which distinguish parties. I am willing to accept the appropriation in the bill, though it is not enough; but trusting to the generosity and justice of future Legislatures to go on with the work; and then the Government will have (what on no other condition they are entitled to) the allegiance and support of the people whom they protect. It is not the cities alone that are interested in their fortification, but the country too; because it is there that they find their market, and exchange their own produce for the necessities of life. It is a matter, therefore, in which every description of persons is interested individually. A nation is never so glorious as when placed in such a situation that no hostile foot can invade it. For the sake of a few millions shall the depots of wealth remain exposed to total destruction? Can it be the policy of enlightened men to continue them subject to this exposure, when in the train of their ruin follows the distress of every class of people? If we now go on and complete the work, in the hour of danger we shall be blessed for it. If there never be any danger, the expense never will be felt. I hope, therefore, it will be recollected by gentlemen that every part of the country is entitled to protection. I could not rest without expressing my anxiety that an example of liberality should be presented. We know that in this country we fall very naturally into the distinction of Southern and Northern. The only way in which these prejudices can be done away, if they exist at all, is for the South to do justice to the North, to vie rather each with the other in supporting each other, than in thus lopping off and curtailing measures of defence. Let us proceed hereafter on this great principle; that the whole country is entitled to protection. Let us foster every part, and be assured the whole will be satisfied.

Mr. HOLLAND said he hoped the motion for striking out would prevail. It was an unenlightened policy in this Government to expend on any object more money than is absolutely necessary. It was urged by the gentleman from New York that the whole of this extensive Continent ought to be fortified. If such a thing as this was possible, it certainly would be improper to attempt the measure at this time, or even to go on as extensively as we have begun. It would be improper, because there was a deficiency in the revenue. Let me put the question to any single individual, whether there be any danger of an invasion. I believe not. For my part, sir, I never apprehended it; I always thought this country perfectly secure from invasion by England or France. I never for a moment believed

that they would attempt it, and therefore have been generally opposed to draining the Treasury by extravagant appropriations for fortifications, because I believed the money could be applied to better purposes. I believe it is impracticable to fortify the whole coast of the United States so as to be perfectly secure, were an invasion to be attempted. The good to result from these works would not equal the expense. We are told that from New York we derive one-third of our revenue. Does the gentleman mean that that city is therefore to be particularly defended? If he does, let him attend to the documents, and he will find that the moneys expended in New York have been equal to almost all the moneys expended in every other quarter. The gentleman has no reason to complain, even supposing one-third of the revenue of the United States to be derived thence. The whole amount now called for is \$750,000, of which \$340,000 are for New York. But the gentleman says further, that New York will be fortified. Does the gentleman mean to coerce the House to grant the whole of the money called for? If not, why say this? I take it to be extremely indecorous for a gentleman to rise and tell the House that a particular State will effect a particular measure. The State of New York has never betrayed sentiments of this kind, and I trust never will. New York is perfectly satisfied with its portion of the whole. But if New York be so anxious, so exceedingly powerful, and so very wealthy, would not equity and conscience induce her to fortify herself?

The only argument in favor of a large appropriation, which is worthy of notice, is, that the whole of the works will go to ruin and decay, if not completed. If they will not go to decay, there is no occasion for the large appropriation contained in the bill from the Senate. It has been said that all the fortifications are of a permanent nature. If so, time will not destroy them so very much as has been represented.

We always find those gentlemen living on the seacoast strong advocates for large appropriations. The modest gentleman from Virginia (Mr. Newton) said that Virginia had not her full share. He did not say that she needed it, but he was willing to give it to his State. The gentleman from York, too, last session, wanted three millions for fortifications. [Mr. GARDENIER said that the gentleman was mistaken; he had wanted four millions.] My mistake, said Mr. H., was in the gentleman's favor. The gentleman talks about short-sighted policy; and this is his *long-sighted* policy, I suppose, wholly to drain the Treasury for at least a doubtful expedient. I hope that the amendment proposed will be adopted, and that no appropriation will be made. The sum already unexpended is sufficient for the raw materials for the military to work on. Will not \$185,000 purchase stones, mortar, and clay, to make brick? Certainly it will; there is therefore no necessity for so large an appropriation. It is true that this bill is sent from the Senate. That is no argument in its favor. I recollect other bills which have come from that body

H. OF R.

Fortifications.

JUNE, 1809.

Navy bills have been repeatedly sent. The last bill of that kind succeeded. And what is the consequence? Have the frigates been of any use whatever to the nation? No, sir; nor will the works be of any use which are to be paid for by the immense appropriation in this bill. I hope it will be stricken out.

Mr. W. ALSTON said that the arguments on this subject might be reduced to a very narrow compass. The only question was, whether it was necessary to complete the fortifications commenced? If it was necessary to complete them, it would be much better always to keep a sufficient sum appropriated to employ the persons engaged in carrying on the work, than to employ a sum which would not be sufficient. The expense necessary for carrying on the work, as respects all officers and agents engaged in it, would be no more if seven hundred and fifty thousand dollars were appropriated, than if but one hundred and fifty were to be expended. Besides, such was the difficulty of procuring laborers, that it would be a great inconvenience now to discharge those employed. Last session (said Mr. A.) a million was appropriated for this purpose by this House, and struck out by the Senate, because they had before them no particular estimate. Now an estimate is laid before us from the Secretary of War, who tells us that in this little time nearly the whole money appropriated has been expended. The \$185,000 remaining, with \$150,000 proposed to be substituted for the sum proposed by the Senate, cannot last till next session. It therefore appears to me to be more wise in us to appropriate a sum which in all human probability will be sufficient to keep the work in progression, than so small a sum as would not keep the workmen together. If, however, a majority should be of opinion that it is not proper to complete the works, there is no necessity to appropriate a single cent.

Mr. NEWTON agreed with gentlemen who had preceded him, that true economy called for the largest appropriation. There was not a fortification in the United States which had received the last finishing stroke; and it was necessary at this time that the fortifications of the United States should be put in the best possible condition. What was our situation in relation to foreign Powers? Could it be said that we were at peace with all the world? It is certainly not in our power to say so, said Mr. N. We have yet a treaty to make with Great Britain; we do not know how we stand in respect to France; and no gentleman can say how long the United States will be suffered to remain in peace. It is, therefore, necessary, the whole world being in confusion, to place ourselves in the most formidable state of defence. Having this belief, I shall not travel over the ground gentlemen have taken, but give my decided vote against striking out the sum. One word in relation to the gentleman from North Carolina (Mr. HOLLAND.) In the course of his remarks he has distinguished me by the appellation of "the modest gentleman from Virginia." I hope I ever shall possess this quality,

so amiable in private life, so essential in public bodies; and as it seems that I possess so great a portion of it, I have no objection to make a transfer of a part of it to that honorable gentleman.

Mr. DANA observed that it had been said that there was no probability of an invasion, and that, therefore, there was no necessity for fortifications. He said he must be permitted to observe that it was perfectly incomprehensible to him, on any principle of military or naval combat, how 100,000 militia could be employed, except in case of invasion; for very certain he was that militia could not constitutionally be required to march beyond the frontier. When, therefore, the President of the United States had detached 100,000 militia, it was sporting with the feelings and understandings of the country, if there was no possibility of invasion. He said he would leave it to gentlemen to settle the question between the practice of the late President of the United States and their own respect for his opinion. Mr. D. said he would admit that fortifications would not constitute a security against invasion by a large army; but he considered them proper to guard us against those collisions which might ultimately involve us in war. He considered them to be such a security as would prevent insolent persons from menacing the peace of our waters. In the same manner as garrisons in the interior would discourage the savages from attempting to plunder or murder our citizens, so fortifications on the seaboard would constitute some security against maritime marauders. He would rest the security of the peace of the country on this ground; that no enemy might ever be tempted to invade by an expectation to acquire plunder without combat, or victory without effusion of blood. He objected to striking out the sum in the bill. The gunboats had cost the United States at least \$1,500,000. It was proposed to sell them. He was not disposed to think that the business had been so ingeniously conducted that they would sell for less than fifty per cent. of their original cost. The proceeds then of the sale of this species of defence taken away would just amount to the sum proposed to be added to another species.

The Committee of the Whole refused to strike out the sum, yeas 33. The Committee then rose and reported the bill.

Mr. BURWELL renewed his motion for striking out the sum for the purpose of inserting a smaller. If the House should refuse to accommodate him, he said he felt no hesitation in saying that he should vote against the bill. The idea of securing this country from foreign invasion or attack by a cordon of fortifications round it, appeared to him to be so perfectly absurd, that he was astonished, whilst gentlemen were zealously engaged in ferreting out one species of mania, that they should introduce another. When the gentleman from New York, said Mr. B., tells the House that one-third of our revenue is derived from the city of New York, does he mean it to be understood that the people pay this duty, or only that the merchants import articles to this

JUNE, 1809.

Fortifications.

H. OF R.

amount which are consumed in other parts of the country, on which of course the duty really falls? Every man of the smallest information knows that these goods, instead of being consumed in that city, are dispersed in every part of the United States. This subject of fortifications is no new thing. We all agree that we should fortify our most exposed points from predatory incursions; but no man supposes that we can establish fortifications which will effectually repel the invasion of a large force. If we were to collect all our revenue for twenty years back, and sell all our real and personal property, and expend the proceeds of it, we should find all these sums thrown away in an attempt completely to fortify the whole coast of the United States. But I wish gentlemen to state whether the conduct of this Government towards the city of New York and every seaport town has not been such as to exhibit a disposition to defend the country. Suppose the strongest fortifications possible to be erected at New York, would they prevent an army from landing in New Jersey or Connecticut, and going round to the city of New York? From whatever cause, we are in no danger now; and whatever may be said in this House, the embargo has caused a conviction in the British Government of the advantage of a mutual trade between the two countries. They are convinced now, as I have always been, that we want nothing else from them. But, if this House, when danger was believed by all to exist, could not be prevailed upon to appropriate more than \$450,000 at the last session for fortifications, with what kind of consistency are they now called upon to appropriate \$750,000 to that object?

The gentleman from Pennsylvania (Mr. ROSS) asks us, whether it would be prudent policy in a farmer to half-fence his fields? Certainly not. But, if a farmer were to attempt to fence in a whole tract of country to secure a little lot, he would not act more ridiculously than we should do in expending extravagant sums of money on an object which can never be attained.

The gentleman from New York (Mr. GARDEMER) says that he wishes to destroy geographical distinctions, and to extend protection to every part. I contend, sir, that, so far as a solicitude has been shown for the protection of any particular part of the country, it has been for the Eastern country exclusively. Every one at all conversant with the subject, knows that very little has been done elsewhere. I admit that New York should be fortified; but the question is, whether we shall, at this particular time, devote the whole revenue of the country to that object; whether it will be an inconvenience to New York or any other town if it be not fortified by the next meeting of Congress, when we are in a state of peace, and there is a prospect of its continuance? I wish not, by large appropriations, to induce the Secretary of War to expend money too precipitately; for, if we do, we shall have still more money to appropriate. We know very well that the appropriations of former years for this pur-

pose have scarcely ever been expended; and how can it be expected that, in addition to the \$185,000 remaining unexpended, the Secretary of War will be able to disburse \$750,000 more? I consider the great bulk of expense for this object to have been already encountered, and that almost all the materials are already prepared. The remaining part of the expense must be comparatively inconsiderable, viz: for the employment of men to make use of the materials, which, in works of this kind, constitute the greater part of the expense. The sum with which I propose to fill the blank, will give the War Department until the next session, \$300,000, as much as can be judiciously expended, as much as we can spare, as much as the exigency of the country will require; and I hope the House will not consent to impoverish the Treasury by appropriating more, when it can answer no proper purpose.

Mr. GOLD observed that he would not detain the House long on this subject. He expressed himself happy at the demonstration already given of a disposition to go through with the fortifications begun. It was a subject in which New York was much interested, and on which, therefore, the Representatives from that State were particularly anxious. Many remarks had been made as to the calculations, on which so much money could be expended in a given time. He acknowledged himself to be completely ignorant of what was done, and of what might be necessary to be done in a given time. Was any gentleman prepared to say, on his responsibility, how far a just economy would authorize the House to go? For his part, he had confidence in the estimate of our public officers, and he perceived with pleasure that many in the House had the same; from other gentlemen, however, he had expected less jealousy in relation to them than had been displayed. It must be acknowledged, on all hands, that the Department which had made the estimate of the appropriation, was much better apprized of the extent to which it would be necessary to go, than the members of the House. It has been remarked, said Mr. G., that the moneys heretofore appropriated to this object have not been wholly expended. What results from this fact? That economy has been observed; that the Government has not been disposed to go to the utmost length when we gave them an opportunity; and shows that we have the greater reason now to give them our confidence. On the subject of fortifications, with all due deference to the gentleman from Virginia, I must be disposed to give greater attention to the report of the officer at the head of the War Department, than to the fruits of the hasty deliberations of any gentleman. There is a well-grounded expectation that New York may be fortified. The gentleman says that an army may land in Connecticut or New Jersey, and proceed to New York. I answer that they may; but, before they can reach New York, they will find more blows than plunder. There is no danger of an army's being landed in the State of New York, though there is of an attack from sea.

Some allusion has been made to an observation made by my colleague, which seemed to assert too strongly the claim of New York. Some such expression may have fallen from the gentleman, in the warmth of debate; but the people of New York do not impose claims on this subject, but appear as petitioners.

The observations in relation to our being always prepared for events, are not mere observations of course. I say it is the duty of all nations, and the writers on the policy of nations have not failed to bestow on that system of policy due approbation. It is not fit that the inhabitants of the seaports, by our waiting until danger approaches, should be left in a situation to be thrown into convulsions, at the caprice of any foreign Power. Their exposure is just ground for an apprehension which they ought not to feel, and which ought to be removed by the Legislature of the Union. It is a subject of no small consideration that the inhabitants of our seaports should be so frequently subject to alarm; I am persuaded that the gentleman from North Carolina would not like to be placed in that situation. I hope, on this subject, that we have no danger to apprehend; that the confidence heretofore placed in the Heads of Departments not having been abused, we shall now place reliance on their estimates.

It has been observed that the State of New York has funds, and might do something to the defence of its own city. And she has done her share, sir. I am not able to state the sum already expended, not having documents which will show it, but it has been considerable. And though they do think it somewhat unreasonable that they should have to expend the funds necessary for the support of Government in the fortification of that harbor, they would rather expend the last farthing of their funds than let it be undefended.

Mr. GHOLSON said that, if he had no further information on this subject than was furnished by the report of the Secretary of War, he could not be induced to vote the appropriation required. On adverting to the report, said he, it seems that \$450,000 were appropriated at the last session for the present year; and that of that sum as much as could be, had been expended, viz: \$265,000, leaving a balance of near \$200,000. If \$255,000 only could be expended in one half year, according to what sort of calculation are \$900,000 to be expended for the remaining half year? The Secretary himself tells you that he cannot precisely estimate the proper sum; he is new in office, and perhaps by the next session will be more conversant than he is now in the details of his office. Had he given a detailed statement of sums necessary for each place, I might have placed confidence in it; but when he thus reports in gross, I cannot place that confidence in his report. At the last session the largest sum thought of by those most sanguine in favor of fortifications was one million of dollars, in a time of impending war, which sum was struck out by the Senate; and now, in a time of peace, they want \$1,200,000; that is, \$750,000 in addition to \$450,000 before appropriated, a sum far exceeding the sum

then thought of. I do not know what can have made this revolution in the minds of the Senate. I suppose that, for the two last years the possibility of invasion did not enter into the calculations of members of both Houses, and therefore the militia were detached, the Army and Marine increased, and fortifications established; and now, when there is a prospect of peace, the detachment of one hundred thousand militia is disbanded, the Senate have passed a bill authorizing the suspension of enlistments, and while every preparation is relaxing, we are to persevere with increased ardor in the expenditure for fortifications, when there is not a dollar in the Treasury to spare. This is an inconsistency which I cannot reconcile to myself. I am willing to go on with fortifications; but I cannot consent, in time of peace, to borrow money, (a very unrepugnant practice at any time,) for the purpose of erecting fortifications, when all the rest of our conduct demonstrates to the world that we do not expect invasion.

Mr. TALLMADGE said that the question was not now whether the city of New York, Norfolk, Charleston, Boston, or any other place, should be defended, but whether the Government should have the sum contemplated to complete the fortifications already begun, or put them in such a state that they may be preserved. In discussing this question, said he, I shall not take up the great question of the embargo, which is brought in on every question, nor will I contend, because the gunboats are about to be given up, that therefore fortifications should be increased; for, since I have been a member of this Government, I feel conscious that I have never advocated them even as an aid to fortifications. I have always believed that fortifications would be necessary to protect the gunboats. I wish to see the Government grant that sum which shall be necessary to place the fortifications in such a state as, whether in peace or war, shall defend the ports and harbors of the United States. From the remarks which some gentlemen have offered to the House on this subject, I am induced to believe that they have not a practical understanding of military tactics. Some gentlemen seem to suppose, because we have a military force, that it will be competent to do the manual labor on the fortifications. Do gentlemen, when they make these remarks, perceive the material difference between works of defence for active war and for permanent defence? On my late journey to the seat of Government, I examined the fortification now erecting on Governor's Island, opposite the city of New York, and it exhibited, in my judgment, a skill in engineering, and a specimen of superior workmanship, highly honorable to those who have been engaged in it. Although the quality of the stone which has been used in the construction of that fort, might be inferior to those which compose this Capitol, yet, in point of workmanship, it was but little inferior to the walls of this splendid dome. Although our troops might be usefully employed in many parts of such fortifications, yet, where it was found necessary to erect such regular works,

JUNE, 1809.

Fortifications.

H. OF R.

to be constructed principally of hewn stone, the Government must employ skilful mechanics. This would be a sufficient answer to those gentlemen who suppose that our regular army is competent to this duty, and therefore that no further aid is necessary from the Government.

As to the question of the sum which it is proper to appropriate, it does appear that some gentlemen think we have not got an overflowing Treasury, and therefore they will not appropriate money for this species of defence. If this be true, the observation will equally apply to any other expenditure. If the erection of fortifications be necessary, whether the money comes in by imposts or loans, it shall have my support. If it be not of importance to fortify the country, and obtain money for this purpose, let the Government say so, and let the fortifications go to decay. We have fortifications in an incipient state, and the question is, shall we leave them as they are, to go back to the earth whence they came, or shall we complete them? For one, I am free to declare that in a time of the most profound peace which a Government can see, and I hope and trust that we are on the eve of it, I would fortify and defend the nation most permanently and completely, and would grant all the means necessary to that purpose. When I say this I do not mean that I would appropriate as large a sum of money as we have heretofore done; but when I consider that \$750,000 is the maximum which the Secretary of War has thought proper to offer for the consideration of the House, I do not wish to diminish it. I am willing to come precisely up to the mark; and should it not be found necessary to expend the whole, I have not the smallest doubt that it will remain in the Treasury, subject to the appropriation of Government. Under all the views of the subject which I can take, I am unwilling to diminish the sum proposed by the Senate, and am therefore opposed to the motion.

Mr. QUINCY said that it appeared to him that gentlemen had not taken that point of view which ought solely to occupy this question, which was, not whether it was proper to begin the fortifications, but whether it was proper to complete them in the mode and in the various places in which they had been commenced. Upon this question he said he did not perceive that there appeared to be any difficulty. Gentlemen did not say that it would be improper to make them complete. In reply to the argument that the money would not be expended there was but one answer, and that was complete, viz: that the Secretary of War says, in his opinion that it can be done. Mr. Q. said he wished gentlemen to remember that whenever a less sum was granted than was necessary to carry on the work, the House would thereby convey an intimation that it was not their intention to complete them. And whilst there was a scramble, amongst the advocates for different fortifications, for their share of a small appropriation, what would be the situation of the Secretary of War? He must either totally omit applying it, or divide it, not according to the interests of the United States, or to the contracts made,

but according to the amount appropriated, in an insufficient and inevitably partial manner.

Mr FISK said he would add but little to what had been already said in opposition to the motion for striking out; for the objections had been many and the arguments in favor of it but few, the principal argument being that the situation of the country did not require the appropriation. The Secretary of War had estimated the sum necessary for New York at \$340,000, a sum considerably larger than the whole sum proposed to be appropriated by the mover of the amendment. He said he did not know what works were carrying on, but he knew that considerable fortifications had been commenced and were in a state of forwardness in New York and at other places. When the whole sum proposed by the gentleman from Virginia (Mr. BURWELL) was divided between the different places to be fortified, it would be found that there was not an opportunity for the agents to make contracts, as every man of prudence would do in a work of this kind. We are told (said Mr. F.) that we are in no danger, that we are secure. The way to be secure is to be prepared for danger. The permanent, solid, substantial defence of the seacoast must be fortifications; and we are told that we are not to carry them on—why? Because the Treasury will not permit it. This is not a good reason against it; the spirit of the nation calls for it, and its resources are sufficient. We know that estimates have generally fallen short of the actual expense, and that it has been necessary to appropriate money to supply the deficiency in many cases. I rather suppose that the present estimate does not exceed the amount to be applied, but probably falls short of it. What is the use of calling for information if you will not take it as a guide, especially when gentlemen are not able to show that it is incorrect? My object is not only to make New York but the whole country more secure. I never knew that any one contemplated making a cordon round us, like the wall betwixt the Tartars and Chinese, or that the nation was competent to do it; but it is the opinion of practical men that New York may be completely fortified. It is asked why New York has not contributed to her own defence. I cannot put my hands on documents on the subject, but at different times money has been appropriated by the State of New York, to a large amount. It is said that the Treasury cannot meet this expenditure unless we resort to loans, and that they are anti-republican. I do not know that they are, when necessary for purposes of public utility, and I should not be incorrect to hazard the assertion that in fifty hours we might borrow fifty millions on account of the United States at five per cent. I merely rose to call the attention of the House to the amount of appropriation. The daily appropriation for the works at New York is \$1,000; and there is no doubt but the share of appropriation for that city will be expended before the next meeting of Congress.

Mr. EMOTT observed that the sum of \$450,000 was appropriated only last February, of which \$265,000 had already been expended. If this sum

had been expended in so short a time, he might say that he conceived that at least the sum in the bill would be necessary before the next meeting of Congress. A word as to the necessity of the expenditure.—Was it necessary to go on to complete the fortifications? Gentlemen had said that the nation is now in a state of peace. Was it recollected that but a day or two ago a bill had been reported by the Committee of Foreign Relations, the purport of which was to place us in a posture of resistance towards France? If this bill were passed, was it not possible that the French Emperor might think that we had done him an injury? If it was ever in his power to do anything to injure us, would it not be by sending out a fleet of armed ships of war, if they could outstrip the English fleet? And were not our seaports to be put in a state of defence against such armaments? There was an absolute necessity for this appropriation. If ever there existed a necessity that the ports and harbors should be fortified, the work having been commenced, it existed peculiarly at this moment. Why would gentlemen, after appropriating so much money, now say that fortifications were not necessary? Why would they not complete those which had been commenced? After having given a pledge to fortify the seaports by commencing the works, he hoped the House would not withdraw it by refusing to complete them.

On the question of striking out the word *seven*, with a view to insert *one*, the vote stood, yeas 47, nays 84, as follows:

YEAS—Lemuel J. Alston, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, James Cochran, William Crawford, Henry Crick, Richard Cutts, Joseph Desha, John W. Eppes, Meshack Franklin, Barzillai Gannett, Thomas Gholson, jr., Peterson Goodwyn, James Holland, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, John Montgomery, Thomas Moore, Jeremiah Morrow, John Porter, John Randolph, John Rea of Pennsylvania, Matthias Richards, John Roane, Lemuel Sawyer, Ebenezer Seaver, Samuel Shaw, John Smith, Samuel Smith, Henry Southard, Rich^d Stanford, Jacob Swoope, Robert Whitehill, Richard Winn, and Robert Witherspoon.

NAYS—Willis Alston, jr., William Anderson, Ezekiel Bacon, William Baylies, Daniel Blaisdell, James Breckenridge, John Brown, John Campbell, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, Orchard Cook, James Cox, Samuel W. Dana, John Davenport, jr., John Dawson, William Ely, James Emott, William Findley, Jonathan Fisk, Barent Gardnier, Gideon Gardner, Chas. Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, Benjamin Howard, Jonathan H. Hubbard, Jacob Hufty, Richard Jackson, jr., Robert Jenkins, Walter Jones, Herman Knickerbacker, Joseph Lewis jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Robert Marion, Vincent Matthews, Archibald McBride, Alexander McKim, Pleasant M. Miller, William Milnor, Nicholas R. Moore, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas

Newton, Wilson C. Nicholas, John Nicholson, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Peter B. Porter, Josiah Quincy, John Rhea of Tennessee, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, Benjamin Say, Daniel Sheffey, Geo. Smith, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Uri Tracy, George M. Troup, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, Robert Weakley, Laban Wheaton, Ezekiel Whitman, and James Wilson.

So that the House refused to insert a smaller sum than seven hundred and fifty thousand dollars. And the bill was ordered to be read a third time to-morrow.

FRIDAY, JUNE 9.

Another member, to wit: **NICHOLAS VAN DYKE**, from Delaware, appeared, produced his credentials, was qualified, and took his seat in the House.

MR. LOVE, from the Committee for the District of Columbia, presented a bill respecting the circuit courts of the District of Columbia; which was read twice, and committed to a Committee of the Whole on Monday next.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act authorizing the appointment of an agent for the land office at Kaskaskia, and allowing compensation to the commissioners and clerk," with amendments; to which they desire the concurrence of this House. The Senate have also passed a bill, entitled "An act for extending the benefit of a drawback of the duties upon exportation on all goods, wares, and merchandise, subject thereto, that may be transported by land from the district of Newport to the port of Boston, and from said Boston to said Newport;" to which they desire the concurrence of this House.

MR. RHEA, from the Committee on Post Offices and Post Roads, presented a bill to alter and establish certain post roads; which was read twice, and committed to a Committee of the Whole on Monday next.

MR. NELSON, from the committee to whom was referred so much of the Message of the President of the United States as relates to the Military Establishment and **MR. RANDOLPH's** resolution for disbanding the troops lately raised, reported "that under existing circumstances it would be impolitic and unwise to disband any part of the Military Establishment of the United States."

Report referred to a Committee of the Whole.

FORTIFICATIONS.

The bill sent from the Senate, entitled "An act making appropriations to complete the fortifications commenced for the security of the ports and harbors of the United States, and to erect such fortifications as may be necessary for the protection of the Northern and Western frontiers of the United States," was read the third time; and, on the question that the same do pass, it was resolved in the affirmative—yeas 77, nays 43, as follows:

YEAS—Willis Alston, jr., William Anderson, Ezekiel Bacon, William Baylies, Daniel Blaisdell, James

JUNE, 1809.

Miranda's Expedition—Olmstead Case.

H. OF R.

Breckenridge, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Howell Cobb, James Cox, Richard Cutts, Samuel W. Dana, John Dawson, James Emott, William Findley, Jonathan Fisk, Barent Gardenier, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, Jonathan H. Hubbard, Jacob Hufty, John G. Jackson, Richard Jackson, Robert Jenkins, Walter Jones, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Robert Marion, Vincent Matthews, Archibald McBride, Alexander McKim, Pleasant M. Miller, William Milnor, Nicholas R. Moore, Jonathan O. Mosely, Gurdon S. Mumford, Roger Nelson, Thomas Newton, John Nicholson, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Rhea of Tennessee, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, Benjamin Say, Daniel Sheffey, George Smith, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Uri Tracy, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, Robert Weakley, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAVY.—Lemuel J. Alston, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, William Crawford, Henry Crist, Joseph Desha, John W. Eppes, Meshack Franklin, Barzillai Gannett, Thomas Gholson, jr., Peterson Goodwyn, James Holland, Richard M. Johnson, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Samuel McKee, John Montgomery, Thomas Moore, Jeremiah Morrow, John Randolph, John Rea of Pennsylvania, Matthias Richards, John Roane, Ebenezer Seaver, Samuel Shaw, John Smith, Sam. Smith, Henry Southard, Richard Stanford, Jacob Swoope, Robert Whitehill, Richard Winn, and Robert Wither- spoon.

MIRANDA'S EXPEDITION.

Mr. McKIM, from the committee to whom was referred the petition of sundry citizens of the United States confined at Carthage, in South America, made a report thereon; which was read, and referred to a Committee of the Whole on Monday next. The report is as follows:

The committee to whom was referred, on the 31st ult., the petition of sundry American prisoners, confined under sentence of slavery at Carthage, in South America, report:

That it appears, from the statement of the petitioners, they were, by various misrepresentations and deceptions, incautiously drawn into the service of General Mirandain an expedition, *hostile in its intention*, against some of the Spanish settlements in South America; that they were engaged under various pretences of serving their country, and acting in conformity to its laws—some *ostensibly* were to go to New Orleans and act as guards to the United States mail, others were to follow their different mechanical professions in that country, and the residue were engaged for a direct voyage to St. Domingo and back to New York—and that they had no suspicion that they were engaging in a hostile enterprise against a nation in amity with the United States.

That, accordingly, the petitioners were embarked at New York, in the month of February, 1806, on board
11th CON. 1st SESS.—9

the ship *Leander*, Thomas Lewis, commander; that, when the vessel had got to sea, General Miranda, *by the name of Martin*, assumed the chief command, and several other persons, till then unknown to the petitioners, appeared as officers on board; that the petitioners were carried to Jacmel, in the island of St. Domingo, where they were exercised in military duty by Miranda and his officers, under the most arbitrary stretch of power; that, at Jacmel, several attempts were made to escape, which proved abortive, guards having been placed in all the passes, and every precaution taken to prevent it.

That, at Jacmel, Miranda procured two schooners, on board of which the petitioners were placed; which schooners, together with the *Leander*, proceeded, about the last of March in the same year, under the command of Miranda, for the northern parts of South America, and arrived on the coast of Terra Firma the latter part of April following.

That, on their arrival at the said coast, the two schooners, on board of which the petitioners were placed, were captured by two Spanish armed vessels; that the petitioners, together with ten others, were convicted by the Spanish tribunal at Porto Cavello of piracy, from the circumstances of suspicion that attached to their situation, and not from any act of that kind committed by them. That the ten others above mentioned were sentenced to death, and the petitioners, some of them to eight and others ten years slavery—the punishment of which sentence they are now suffering, under heavy irons, and other circumstances of distress, painful to the feelings of humanity to relate.

The committee, under a persuasion that the facts stated by the petitioners are substantially true, and on a full view of all the circumstances of this case, are induced to submit the following resolution for the consideration of the House:

Resolved, That the President of the United States be requested to adopt the most immediate and efficacious means in his power to obtain the liberation of the petitioners, if it shall appear, to his satisfaction, that they were involuntarily drawn into the unlawful enterprise in which they were engaged; and that—dollars be appropriated to that purpose.

OLMSTEAD'S CASE.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the House of Representatives
of the United States:*

In consequence of the request of the Legislature of Pennsylvania I transmit to Congress a copy of certain of its proceedings, communicated for the purpose by the Governor of that State.

JAMES MADISON.

JUNE 4, 1809.

[The enclosed document was the detailed report of the Legislature, with the instructions of the Legislature to the Senators and Representatives.]

And on motion made to print the Message and document, Mr. LYON objected to the motion.

Mr. J. PORTER advocated it on the ground of its being the usual course pursued by the House in all communications from the constituted authority of a State.

Mr. MILNOR opposed the printing, principally because no act was now to grow out of it. The

paper had been drafted to meet a case then pending, and difficulties which then had existed. Since the adoption of these resolves, these difficulties had been done away by an act of the Legislature of Pennsylvania. It appeared to Mr. M. also that no proceedings would be necessary in consequence of those papers, if only necessary to prevent the recurrence of similar cases in future.

Every one who had attended to the reading of these papers must have seen that they related to a case of difficulty which had arisen when this Government was merely a confederation of States, when its powers were confined within such narrow limits that Congress could not enforce its decrees, when its acts were nothing more than recommendations to the State Legislatures. At that period this question had arisen from a dispute between the United States and the State of Pennsylvania, how far each had jurisdiction in the Courts of Admiralty and courts of appeal. No such case could in future arise, because the Constitution had been framed by the people of the States which vested in the Congress of the United States the entire power of appointing courts of admiralty jurisdiction. No State could now take cognizance of admiralty cases; in future there could be no clashing of jurisdiction on this subject. Whether the courts of the United States or those of Pennsylvania were correct in the principles which they had set up in the case under consideration, appeared to him to be a question which it was not necessary to examine at this moment. The case had been completely settled by the payment of the money to Gideon Olmstead. He had hoped that the dispute had been by that means wholly put to rest; and from a belief that it ought to be so, he did not wish his document to be printed, but merely to lie on the table. The resolution of the Legislature of Pennsylvania which recommended to the Representatives and instructed the Senators from that State to endeavor to effect such an alteration in the Constitution as should establish an independent tribunal for the trial of such causes, had been produced by the idea that the case of Olmstead was a dispute between the United States and the State of Pennsylvania. It had never appeared otherwise to him than as a dispute between the Judiciary of the United States and the constituted authority of the State of Pennsylvania. On the part of the Judiciary of the United States it was an attempt to carry what it believed to be its legal powers into effect. Resistance was made by the constituted authority of Pennsylvania, under the idea that this conduct of the Judiciary of the United States was in consequence of a power assumed by them, a power not delegated by the Constitution or the institution of their office. If the judges of the Courts of the United States had misconceived their authority, if in their decisions they had acted contrary to the Constitution or the laws, then are they liable to impeachment for the conduct which they have pursued; but it could not be said that it was a contest between the Governments. The Government of the United States never interfered. The pro-

cess issued from the courts of the United States. The marshal executed it; and in compliance with the process the money had been paid. The case appeared to be completely at rest; and the resolutions of the Legislature appeared to be bottomed on a false foundation, so far as they contemplated a difference between the United States and Pennsylvania. The Judiciary of the United States must in this case have been as impartial as any tribunal could be. There was not, in this case, one cent claimed by the United States or any officer of the United States; the judges were not interested by any affinity with the parties claiming it; and, if not in this case free from prejudice, it was impossible that they ever should be so. Believing, if the judges of the courts of the United States had erred, it was an error in judgment and not from corrupt motives, he could never consent that, in a case of this kind, the Congress of the United States should proceed to any further act. He hoped therefore that the papers would not be printed, but would be ordered to lie on the table.

No other gentleman rising to speak, the motion for printing was negatived, 63 to 50; and the Message and documents ordered to lie on the table.

BARRED CLAIMS.

Mr. JOHNSON, from the Committee of Claims, made several reports on petitions; amongst which were two or three on petitions of old soldiers, &c. On these the committee reported, without entering into the merits of the several cases, that they were barred by the statute of limitations, and therefore recommended that the prayer of the petitioners ought not to be granted. A report similar to this having been made on the petition of Hannah Forster of Philadelphia, widow of a Revolutionary officer, it was negatived by the House.

A motion was made to reconsider this report, on the suggestion of Mr. STANLEY that the question had not been understood by the House.

Mr. GOLDSBOROUGH opposed the motion. He hoped the House would not sanction by its vote the broad principle that every claim, however just, should be barred by the statute of limitations; but that they would decide that it should be no bar to the payment by Congress of all just claims.

Mr. JOHNSON (the Chairman of the Committee of Claims) expressed his satisfaction that this question had been brought up for the consideration of the House, that by its decision the Committee of Claims might be guided in its future conduct. The committee were every day presented with cases of hardship which created painful sensations in the breasts of the committee, but which they were compelled, from the uniform conduct of the Committee of Claims heretofore, to reject because they were barred by the statute of limitations. Thus in the present case the committee had reported, not that the claim was not just, but that they had not examined it because barred by the statute. He should feel happy at a decision which should open the statute to particu-

JUNE, 1809.

Finances.

H. OF R.

lar claimants, and should not, as a member of the committee, ever shrink from the investigation of them. He found himself bound to vote for a reconsideration of the vote on this report, because if the statute was to be opened to particular cases, it should be done by some general rule, and not by a decision on a single case.

Messrs. HOLLAND and NELSON said that they never had believed that Congress were barred by the statute of limitations; they believed it was only intended to bar a settlement at the Treasury of document claims—of claims against which the length of time that they had been suffered to sleep was strong presumptive proof. If this principle set up by the Committee of Claims was to be adhered to, to what purpose was any claim referred to a committee? The reason why these petitions were presented to the House was, that the claims were barred by the statute; for, if not barred, they would long ago have been settled at the Treasury Department. These reports of the Committee of Claims had long been considered as reflecting dishonor on the House; and it was believed that the Committee of Claims ought to examine into the equity of cases presented to them, without reference to the statute of limitations. If that was to bar all claimants, there was a much more ready way of obtaining their answer than by a report of a Committee of the House; on application to the Treasury, their claims would be rejected without delay.

The House refused to reconsider the report, 50 to 42; and

On motion of Mr. EPES, the report was re-committed to the Committee of Claims, with instructions to report on the merits of the case, 68 to 38.

[This decision is understood to operate as an instruction to the Committee of Claims in future to report on the merits of all cases, without considering the statute of limitations as a bar to their liquidation by Congress.]

FINANCES.

On motion of Mr. EPES the House resolved itself into Committee of the Whole on the bill supplementary to the act entitled an act making further provision for the support of public credit, and for the redemption of the public debt. This bill provides—

“That the powers vested in the Commissioners of the Sinking Fund, by the tenth section of the act to which this act is as supplement, shall extend to all the cases of reimbursement of any instalments or parts of the capital, or principal, of the public debt now existing, which may become payable according to law. And in every case in which a loan may be made accordingly, it shall be lawful for such loan to be made of the Bank of the United States, although the same may exceed the sum of fifty thousand dollars.”

Mr. EPES stated the object of the bill to be to accommodate the provision of a former law to the existing state of the public debt. On the 11th February, 1807, a change was made in the stock; and it had been made a question by the Bank of the United States whether the Commissioners of

the Sinking Fund had the same power to borrow, in relation to the new stock created by the exchange, which the law gave them in relation to that which was thus exchanged.

Mr. DANA observed that this bill appeared to be a form to supply a deficiency actually existing or apprehended in the revenue of the United States. He was not certain that it was the best mode of borrowing money for the current service of the year, to borrow it under the name of a loan for the redemption of public debt. He also doubted whether the mode proposed was the most proper; for himself he said he should prefer that no loan should be made until public notice should be given of the time and place of making it, so that the Bank of the United States should not have any particular privilege; and that individuals disposed to loan money might have an opportunity of competing with the bank in the loan. For, such a contract for a loan of three or four millions, given to a particular individual or institution, in the existing state of commerce, might be very valuable, perhaps worth many thousands of dollars. The simple fact that the interest on stock of the United States was payable quarter yearly, gave it a preference to other stock, and other considerations enhanced its value; that the United States six per cent. stock generally sold in advance. He should therefore wish that public notice should be given by the Secretary of the Treasury of the loan when made, as had heretofore been done in similar cases.

Mr. EPES replied, that the bill did not contemplate any new principle, but merely to accommodate the law to the change of stock. Circumstances might cause a deficiency in the revenue, which this provision would meet; but for the change in the denomination of the stock, it would have been met without the necessity of any new provision.

This debate was continued for two hours. Messrs. DANA, QUINCY, LIVERMORE, TALLMADGE, and RANDOLPH, contended that, should there be a possibility of the revenue falling short of the sum of eight millions annually pledged (after the payment of six hundred thousand dollars for the civil list) for the payment of the public debt, then such a law as this would be absolutely necessary for the support of public credit; but such a deficiency being almost out of the compass of probability, it was almost immaterial whether the bill passed or not. That a deficiency would exist in the revenue of the United States for the current expenses of the year, after paying the civil list and public debt, could not be doubted; but such a deficiency could not be supplied by borrowing for the payment of the public debt, without a misapplication of the public money. It was also said, that if money was wanting for the current expenses it must be had, but ought to be obtained by a special loan, public notice of which should be given. This bill could not be acted on but in a supposed case (which it was said would not occur) of a deficiency in the sum of eight millions six hundred thousand dollars, annually pledged for the payment of the civil list and public debt; and

that it would not be lawful to apply the revenue thus pledged, to the payment of the current expenses, and thus leave a deficiency (to be supplied under this bill) in the sum required for the payment of the civil list and public debt.

It was replied, by Messrs. EPPES and MONTGOMERY, that, whether there would or would not be a deficiency in the public revenue depended on a contingency, viz. whether or not the sum to be paid out of the Treasury for drawbacks would exceed the estimate; and it was to provide against a deficiency which might be thus caused, that the bill was intended.

Mr. QUINCY observed, also, that it would not be fair to pay off the subscribers to the stock with money obtained by a new loan, whilst they were willing, nay even desirous to remain the creditors of the United States. It would in fact be favoring the Bank of the United States in preference to those who had accommodated the Government by lending money. He therefore moved the following proviso:

"Provided also, That no such loans be made for the purpose of reimbursing any certificates issued under the act entitled, 'An act supplementary to an act for the redemption of the whole of the public debt of the United States,'—the owners of which shall not wish to be reimbursed."

On this motion it was observed, by Messrs. EPPES and VARNUM, that this was a provision which precisely rendered the provisions of the bill nugatory; besides, it would be a violation by the United States of the faith they had pledged, not to reimburse the creditors, and surely it could be no hardship to them to have their money reimbursed when due.

Before a question was taken, the Committee rose and the House adjourned till Monday.

MONDAY, June 12.

Mr. NELSON, from the Committee on the Military Establishment, to whom was referred the bill sent from the Senate, entitled "An act to suspend, for a limited time, the recruiting service," reported the same, without amendment.

Ordered, That the said bill be committed to the Committee of the Whole on the report of the Committee on the Military Establishment, on the expediency of immediately disbanding the troops recruited under the act entitled "An act to raise, for a limited time, an additional military force."

Mr. QUINCY presented petitions from sundry manufacturers of salt in the State of Massachusetts, respectively praying that duties may be imposed on salt imported from foreign places.—Referred to the Committee of Commerce and Manufactures.

Mr. MONTGOMERY, from the committee appointed on the second instant, presented a bill making compensation to Major Zebulon M. Pike and his companions; which was read, and ordered to lie on the table.

Mr. MONTGOMERY, from the same committee, also presented a detailed report in relation to the services of Major Pike and his companions, in

their late exploring expeditions; which was read and ordered to lie on the table.

The SPEAKER laid before the House a report of the Attorney General of the United States on the petitions of Edward Livingston, and of sundry inhabitants of the city and Territory of Orleans, in relation to a parcel of ground adjoining the city of New Orleans, called the Batture, referred to him during the last session of Congress; which was read, and referred to Messrs. MACON, NICHOLAS, SMILIE, SEAVER, and THOMPSON.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill making appropriations for rebuilding two light-houses on Plumb Island, in the State of Massachusetts; which was read twice, and committed to a Committee of the Whole on Wednesday next.

Mr. SOUTHWARD, from the committee appointed on the first instant, presented a bill to revive and make permanent "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses," and in addition to the same; which was read twice, and committed to a Committee of the Whole on Wednesday next.

A message from the Senate informed the House that the Senate have passed a resolution, in the form of a concurrent resolution of the two Houses, proposing an adjournment of the present session of Congress on the twentieth of the present month.

The House resolved itself into a Committee of the Whole, on the bill authorizing the discharge of John Heard from his imprisonment. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

The House proceeded to consider the amendments of the Senate to the bill, entitled "An act authorizing the appointment of an agent for the land office at Kaskaskia, and allowing compensation to the commissioners and clerk."

A motion was made by Mr. JOHN G. JACKSON that the said amendments, together with the bill, be committed to a Committee of the Whole, and the question being taken thereupon, it was determined in the negative. The bill and amendments were then committed to the Committee on the Public Lands.

A bill from the Senate for extending the benefit of drawback to goods transported by land from the district of Newport to the port of Boston, was twice read and committed.

Mr. CUTTS, from the Committee on the Naval Establishment, reported a bill concerning the same.—[This bill authorizes the President of the United States, in case of a favorable turn in our foreign relations, to cause to be laid up in ordinary such of the public armed vessels of the United States as he may think proper.]—Twice read and committed.

Mr. CUTTS, from the same committee, on the resolution directing the committee to inquire into the expediency of selling any part of the public armed vessels, reported that it is not expedient, at this time, to sell any of the public armed vessels. Ordered to lie on the table.

JUNE, 1809.

Mississippi Territory—Adjournment—Contested Election.

H. OF R.

MISSISSIPPI TERRITORY.

The SPEAKER presented a petition enclosed to him from a number of inhabitants of the district east of Pearl river, in the Mississippi Territory, praying for the division of the Territory.

Mr. POINDEXTER moved that the petition lie on the table. It would perhaps be disrespectful to the petitioners to reject it, although its contents would merit that course. There were three parties who must, by the ordinance for the government of the Territory, consent before the Territory of the Mississippi could be divided. One party was the Mississippi Territory, the other the State of Georgia, and the third the United States. Neither of these parties had consented. There was, therefore, an absolute interdiction to all legislation on the subject; and the House could, with as much propriety, refer a petition from a State to be exempt from general taxation, or to recede from the Union, as to refer this petition.

Mr. BURWELL said he felt himself bound to oppose the motion for its lying on the table. If the request was wholly improper, the report of a committee to that effect would settle the question at once.

Mr. BIBB was in favor of the motion; though, had a motion been made to reject it, he should have voted against it.

Mr. MACON was in favor of a reference of the petition. No harm could arise from an inquiry into it.

Mr. TROUP admitted the correctness of the remarks of the delegate from the Territory, but wished the petition to be referred to a committee for the purpose of an inquiry as well into the amount of population in that country as into its quality; whether it was lawful or unlawful.—There were certain facts connected with this subject, perhaps not generally known to the House. In the course of last year, he had understood that a great many persons, amounting to perhaps three or four thousand, had crossed the Tennessee river, and fixed themselves on its banks, not only contrary to law, but the impression was that they had set out in defiance of the law, and had even gone so far as to organize themselves into military associations for the purpose.

Mr. POINDEXTER observed that there had been a settlement contrary to the existing law on Tennessee near about a year ago; but that they were ordered to be driven off by the military force, except they would take permission to reside as tenants at will. Some had done so, and some had been driven off.

Mr. TROUP said he knew that orders had been given to remove them; but of their removal and dispersion he had not heard. He said he had further understood that there were, in the county of Madison alone, two or three thousand intruders, and many of them settled on Indian lands, whose owners they excited to hostilities. There was another fact, of which the House might keep possession. Among these intruders was one of the name of Harrison, he believed, who claimed under what was called the Tennessee Yazoo claims, and who settled on the land with his retainers,

and deliberately began to apportion it among them. Whether he had been dispossessed, Mr. T. said he did not know. It was absolutely necessary to ascertain the situation of that country, and therefore he should vote for the reference of the petition to a committee.

The petition was ordered to lie on the table—67 to 27.

ADJOURNMENT.

On motion of Mr. BIBB, the House took up the resolution from the Senate to adjourn on the 20th instant.

Mr. J. G. JACKSON moved that it lie on the table till Thursday. He thought it was unbecoming the dignity of this body to fix a day at which to adjourn, when it was impossible to say whether the business before the House could be maturely considered in that time. It was hurrying business at the hazard of its being insufficiently attended to.

Messrs. ALSTON and COOK were of the same opinion.

Mr. BIBB said he was not very anxious about it, but he did not before know that the dignity of a body was proportioned to the length of its sittings. He was of a very different opinion, believing that as much business might be as well done in a week as was often done in a month.

Mr. DANA was in favor of the resolution's lying on the table. He said he had supposed that quality was quite as material as quantity in legislation. It was an extraordinary thing that a Legislature should serve its members as sometimes men served their horses or slaves, giving them a certain portion of work to do within a given time, and then lashing them up to it. He had no idea of legislating upon compulsion.

The resolution was ordered to lie on the table till Thursday next—ayes 87.

CONTESTED ELECTION.

On motion of Mr. FINDLEY, the House resolved itself into a Committee of the Whole, on the report of the Committee of Elections on the petition of Charles Turner, jr., contesting the right of WILLIAM BAYLIES to his seat.

On this report, the acceptance of which by the House would postpone the decision of the case till the next session, a debate arose which continued till 5 o'clock; in which Messrs. W. ALSTON, BACON BAYLIES, CLAY, DANA, FINDLEY, FISK, GANNETT, GHOLSON, GOLD, HOLLAND, LIVERMORE, MACON, MONTGOMERY, PICKMAN, QUINCY, RANDOLPH, RHEA, TAYLOR, VARNUM, WILSON, and WHEATON, took part.

It was contended by those in favor of postponement, that the depositions taken on the subject of this election, although the parties might have had reasonable notice, were not legal, having been taken under the authority of no existing law; that time had heretofore been allowed in similar cases on the request of the sitting members; that the constituted authority of Massachusetts having decided the first election not to be valid, and having ordered a second, it was doubtful whether Congress were not precluded

H. OF R.

Contested Election.

JUNE, 1809.

from acting on the subject. It was also said by other gentlemen that it was a matter of courtesy to the sitting member, on his request in behalf of his constituents, to grant time for procuring testimony.

On the other hand, it was said that the depositions were taken under the same circumstances as those under which a member (Mr. CULPEPER) had during the last Congress been deprived of his seat; that time sufficient had been allowed previous to the meeting of Congress; that the returned member had not stated any specific facts which he believed he could prove if time were given; that the constituted authority of Massachusetts had no exclusive power of deciding on the returns of members, Congress being the sole judges of the returns of their own members, and having, in various instances, set aside elections declared valid by the State authorities, as in the case of Cowles Mead and John Culpeper. It was also observed, that some consideration was due to the gentleman contesting the seat of Mr. BAYLIES, who had already attended the whole of this session at considerable expense and inconvenience.

A motion was made that the Committee rise, with a view to recommit the report to the Committee of Elections. The Committee did rise about 5 o'clock, and were refused leave to sit again—65 to 55. A motion was made to recommit the report; which was opposed by Mr. PITKIN. A motion was made to adjourn, which was carried.

TUESDAY, June 13.

Mr. SMILIE presented a memorial of the hat manufacturers resident in the city of Philadelphia, praying that additional duties may be imposed upon hats imported from foreign countries. Referred to the Committee of Commerce and Manufactures.

Mr. JOHN G. JACKSON, from the committee on that part of the Message from the President of the United States which relates to our foreign relations, presented an amendatory bill to amend and continue in force the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" which was read twice, and committed to a Committee of the Whole on Thursday next.

Mr. STANLEY, from the committee appointed on the petition of John Kerr, presented a bill for the relief of John Kerr; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. MORROW, from the Committee on the Public Lands, to whom was yesterday referred the amendments of the Senate to the bill, entitled "An act authorizing the appointment of an agent for the land office at Kaskaskia, and allowing compensation to the commissioners and clerk," reported the disagreement of the committee to the said amendments.

A motion was made by Mr. JOHN G. JACKSON

that the report and amendments, together with the bill, be committed to a Committee of the Whole; and the question being taken thereupon, it was determined in the negative. The question was then taken upon concurring with the committee in their disagreement to the said amendments, and resolved in the affirmative.

Mr. WHITMAN presented a memorial of the manufacturers of hats in the town of Portland, District of Maine, to the same effect with the memorial of the hat manufacturers in the city of Philadelphia, presented this day.

Mr. GARDNER presented petitions from the manufacturers of salt in the towns of Orleans and Yarmouth, in the State of Massachusetts, praying that additional duties may be imposed on the importation of salt from foreign countries. The petitions were read, and severally referred to the Committee of Commerce and Manufactures.

An engrossed bill, authorizing the discharge of John Heard from his imprisonment, was read the third time, and passed.

Mr. POINDEXTER presented a memorial of a number of citizens of the United States, residing on Tombigbee river, stating that they are subject to an enormous duty of twelve per cent. on all exports and imports at the Mobile, to be paid to the Spanish Government, and praying relief.—Referred to the Committee of Ways and Means.

Mr. LOVE reported a bill for the improvement of the navigation of the river Potomac.—[This bill contemplates giving power to raise money by lottery, &c., for the purpose mentioned.] The bill having been read once, was read a second time—50 to 48. It was then made the order for to-morrow week—53 to 42.

CONTESTED ELECTION.

The House resumed the consideration of the unfinished business of yesterday.

Mr. FINDLEY gave his reasons in favor of recommitment.

Mr. PICKMAN stated at length the grounds on which the Council of Massachusetts had ordered a new election in the case, and supported the right of Mr. BAYLIES to his seat. Mr. CUTTS replied. Messrs. RHEA, BACON, and COOK, also advocated recommitment, and Mr. QUINCY replied to some observations made by these gentlemen.

The report was recommitted without a division.

Mr. BACON moved a resolution to instruct the Committee of Elections to inquire into and report such specific facts as in their opinion may afford good grounds for postponing the decision; and, if none should exist, to instruct them to inquire into the merits of the case.

Mr. POTTER moved to amend it by adding "and likewise to report to the House whether the depositions taken were authorized by any law of the United States."—Motion negatived—ayes 36.

Mr. BACON's motion was also negatived—ayes 28.

JUNE, 1809.

Miranda's Expedition.

H. OF R.

MIRANDA'S EXPEDITION.

The House went into Committee of the Whole on the following resolution, reported by the committee appointed to consider the petition of thirty-six citizens concerned in Miranda's expedition, and now confined in the vaults of Carthagena, South America:

"Resolved, That the President of the United States be requested to adopt the most immediate and efficacious means in his power to obtain the liberation of the prisoners, if it shall appear to his satisfaction that they were involuntarily drawn into the unlawful enterprise in which they were engaged; and that—dollars be appropriated for that purpose."

Mr. McKIM observed, that he believed nothing further would be necessary for the attainment of this object than an application by the Government of the United States; he then moved to fill the blank in the resolution with such a sum (\$3,500) as would defray the expense of sending a vessel there and clothing the prisoners previous to their return.

Mr. RANDOLPH said, he believed there would be no better time than on this motion to express the disapprobation which he felt of the report; for he was unwilling, in his representative capacity, to give one cent of the public money for bringing back into the bosom of the body politic these unfortunate but guilty men. He knew how invidious a task it was to appear to lean to the side of inhumanity; he knew how very natural it was for the mind of man to relent, after the commission of a crime, and to see nothing in a culprit but his misfortunes, forgetting his guilt; but there were occasions, and he took this to be one, where to lean apparently to the side of humanity is an act of as great injustice and cruelty to society as the Legislature can commit. What were the House about to do? To make an appropriation of money for an extraordinary purpose of foreign intercourse. Was not the President of the United States already invested with power to negotiate with the Spanish Government on this, as well as with as any other Government on any subject? Was the President of the United States presumed to have turned a deaf ear to the cries of our suffering countrymen in captivity in a foreign nation? Mr. R. said, this was not like a question of redeeming our countrymen from slavery in Barbary or Tripoli; but it was a question whether this Government would lend its countenance to that class of men who were concerned in the expeditions of Miranda and Aaron Burr. He for one said, that he would not consent to it; and that those persons who, above the dull pursuits of civil life, had enlisted under these leaders, might take for him, however he might feel for their situation as men, the lot which they themselves had selected. He said, he considered them as voluntarily expatriated from this country, and among the articles of commerce and manufacture, which it might be contemplated to encourage by bounty and premiums, he confessed for one, that the importation of such citizens as these was not an article of traffic which would meet with any encouragement from him. So far

from being afraid of any ill consequences resulting from the sparseness of our population, he was afraid that our population, (and experience has tested the fact) sparse as it was in number, in quality was redundant. We have been told, said Mr. R., and I believe it, that but the other day the Foreign Office in Great Britain cast its eyes on Colonel Burr, and that they either did commit him—I understand that he was committed and stood so for some time, and was only released on condition of quitting the country—that they either did commit or threaten to imprison that unfortunate man. I want to know, sir, if he had stood so committed, in what respect his case, in a political point of view, would have stood contradistinguished from that of these petitioners? I can see no difference but such as, in my mind, would have operated to his advantage. There is an equality of guilt, but on his part a superiority of intellectual character which would have rendered him, if there is to be an accession to the State by bringing back to its bosom those who have voluntarily thrown themselves out of the protection of the country, a more valuable acquisition, or rather a less valuable loss, than these unfortunate men.

It appears to me, sir, that in passing this resolution we shall hold up a premium to vice; for, if this proposition be agreed to, when some new Miranda or Burr comes forward with his project, he will tell his conspirators that they will have nothing more to do, should the matter turn out adversely, than to put up a face and tell Congress that they were involuntarily drawn into it. An extraordinary mode, to be sure, of volunteering to go against their will. These *involuntary* volunteers will be told they will have nothing to do but throw the whole weight of the blame on the original mover of the expedition, and Congress will tax their fellow-creatures—who, poor souls, had not enlarged and liberal minds, and were content with the dull pursuits of civil life—for redeeming them, clothing them, and bringing them back again to society. I wish the Committee to take the thing into consideration. As men and christians our conduct is to be governed by one rule; as representatives of the people, other considerations are proper. There is, in the proposed interference, no justice; there may be much mercy, but it is a mercy which carries cruelty, if not deliberate, the most pernicious of all possible species of cruelty, along with it. Suppose these men had been arrested and tried in this country, what would have been their lot? It is difficult for me to say. I am no lawyer; but I suppose, under the mild institutions in some of our States, they would have been condemned to hard labor for life. In what do they differ, to their advantage, from other felons? In nothing. Who would step forward to rescue them from that punishment due to their crime if convicted by our own courts? Nobody. Everybody would have said that they deserved it. Now, on the contrary, having escaped the hand of justice in this country, and fallen into the grasp of the strong hand of power in another country, we are not contented to let

them reap what they have sown ; we are not contented to leave them in the hands of justice. I believe that there exists a proper disposition in the Executive to interfere, where American citizens are wrongfully treated abroad. And, shall we come forward and open the public purse, and assume on ourselves the responsibility of that act which the President refuses to do, and thus share among us the imputation, such as it may be, which society chooses to cast upon us in consequence of it, instead of letting it fall singly and individually upon him, in case he chooses to incur it? No, sir. I have no disposition to pass this resolution to take the responsibility upon myself. In short, I should have been glad, if instead of telling us that these men are unfortunate and miserable, (for who are so unfortunate and miserable as the truly guilty?) that the members of that committee, or the respectable chairman himself, had come forward and shown the claim of these petitioners to the peculiar patronage of the country. So far from any disposition to bring them back, I would allow a drawback or bounty on the exportation of every man of similar principles.

Mr. EMOTT said, that as he had been a member of the committee whose report was now under consideration, he felt the propriety of making a few observations to show the expediency of adopting the resolution. In order to obtain the release of these miserable and deluded men, it was necessary that the Government should interfere, because the Spanish Government never would release them till such application was made. The only money necessary to be paid was not to the Spanish Government, but to defray the expense of bringing back the prisoners. It was not to buy their liberty, but to employ a person to go there to request it.

It had been said that the President had power to attempt the release of these persons without any resolution of the House. Mr. E. said he would not enter into that consideration. He knew, if the President had the power, that he had not chosen to exercise it; and if the House could find from the statement of the situation of these men that they ought to be relieved, they should not refrain from expressing their opinion, merely because the President had the power and would not exercise it.

It might be necessary, Mr. E. said, to call to the minds of the Committee the situation of these men. They were persons employed by Miranda, in his expedition, who, he undertook to say, did not know that they were going on any expedition contrary to the laws of the country. When taken, they had been tried by the Spaniards on a charge of piracy, and condemned to lie in a dungeon for a term of years. They prayed the Congress for its interposition in their behalf.

It had been said that these men knowingly engaged in this expedition. Mr. E. said he believed that they did not; but, admitting, for a moment, that this was the case; that they did know the pursuit on which they were entering, they should not, for that reason alone, be suffered to lie in prison. Let it be understood, said Mr.

E., that this expedition, whatever it was, was carried on, in the face of day, in the city of New York, and that equipments of the vessels and enlistments were made without interruption in, the face of day. And would these persons believe that they were going on an unlawful expedition? They might have enlisted from the best motives; and, supposing that they had enlisted, under the knowledge that they were going on an expedition, yet seeing that it was carried on in open day without interruption from the Government, he much doubted whether these poor men ought to be suffered to lie in prison.

But, putting motives aside, these men declare that they did not understand the nature of the service for which they were engaged; and this statement the committee who made the report had brought themselves to believe. Let it be recollected that these unfortunate individuals were lying in prison; and, although they had, by some means, forwarded a petition here, they could not attend in person to urge their claim to relief by proofs presented to the House. The persons who procured these men to go on this expedition certainly would not be very willing to come forward and give testimony; because, by so doing, they might criminate themselves and render themselves liable to the operation of the laws of their country. Considering that these persons were removed thousands of miles from us, that they were unfriended, and that the persons who alone could prove that their intent was innocent, would not come forward for fear of criminating themselves, he thought these men were entitled to commiseration, and he believed that it was in his power to show two or three circumstances which would convince the House that they had no knowledge of the nature of this expedition. The first circumstance was the extreme improbability that these men would have engaged in this expedition, if the nature of it had been explained. Had Mr. Smith or General Miranda gone to these men and said, "we are going on an expedition against the laws of the country, and, if taken, you will be punished under the laws of one country or the other," it is extremely improbable that they would have engaged. It is not likely that Miranda or Mr. Smith avowed their purposes, and told them that they were going on an expedition hostile in its nature, and against the laws of the country, because its object was to revolutionize a nation in amity with the United States. It is impossible that these men should have known the nature of the expedition, when it was not known to the Government here, however public. This circumstance, to me, is conclusive, to show that these young men did not know it. There might have been persons who did; if you please, Mr. Ogden, who furnished the ship, or others, but it is impossible to believe, that these men, who were mere soldiers for carrying on the expedition, knew the nature of it. I am convinced that these persons, all privates—for the officers were executed—did not know why they did enlist, or that the corps was for the purposes to which it was actually designed.

JUNE, 1809.

Miranda's Expedition.

H. OF R.

I have said, and perhaps every person here knows, that the whole of the business was carried on in the face of day. Here were General Miranda and Mr. Smith coming to the seat of Government, and back to New York, procuring clothes, enlisting men. Can it be conceived that all this could have been carried on, if General Miranda had not meant to conceal it from the Government? But it is in my power to furnish something more than mere conjecture on this subject. The Committee will recollect that a greater part of this transaction took place at New York. There the men were to rendezvous, there the vessel was furnished, and to that State most of the young men who are now in South America did belong. In that State this matter was the subject of judicial investigation. Mr. Smith and Mr. Ogden were indicted. I will read a part of the evidence given on the trial, which will satisfy any one, at least it has satisfied me, that these men had no hand in it. Mr. Fink, who was produced as evidence on the part of the Government to convict Mr. Smith, was the person who was intrusted with enlistments.

[Mr. E. then read the following, and other extracts, from the report of the trials of the Messrs. Smith and Ogden :

John Fink—sworn.

Q. Do you know Colonel Smith?

A. Yes. He applied to me last Winter to enlist some men, or rather to engage some men for Government service. I told him I did not know of any men. But a few butchers were idle. I was to give the Colonel news next morning. Instead of six, as he told me yesterday, there was wanted twelve men, a sergeant, and a corporal. They asked a good price, it was fifteen dollars per month. There were fourteen at that time, and went on as far as twenty. I was authorized by him. He represented to me that they were for the service of the United States, but it was afterward found they were to go on board the *Leander*. He would not tell us where they were going to. He said he could not disclose the particular object. That he could have a great deal of money to explain it to a certain man, and, therefore, could not tell the sergeant or me. These men saw Colonel Smith. Several of them not at all. I saw him often; he said they were to go on a detachment. They boarded at my house. His son was to command the company, and had a commission to go. I have seen Smith several times at my house. He showed me a bundle of papers, which he said were his orders to get these men. Smith informed me that an expedition similar to this was to go from other States. He said his son was a captain. They went on board; the mate abused them, and they would not stay. There was fifteen dollars and a half a piece given to them. There were twenty of them. I received this money from Colonel Smith. He put it in parcels for each man, and delivered it to me for them. It was a month's pay. The men came to my house after they left the *Leander*. They would not go on board the vessel.

Q. by Hoffman. Was it intimated to them that they would stop at a place where they would have an opportunity to return, if they did not like the service?

A. I believe it was mentioned to them.

Q. by Colden. Was it not communicated to them that when the vessel arrived they would be at liberty

to return, and a passage be provided for them, but that he could not tell what part they would be sent to?

A. Yes.

Peter Rose—sworn.

Q. Did you sail in the *Leander* on her last voyage?

A. Yes. I was employed by Captain Gardiner, who told me he wanted me to go to New Orleans—that we were to sail from here to Washington, and go from Washington by land.

Q. Have you been at New Orleans?

A. No.

Q. When did you discover the *Leander* had a different object in view?

A. As soon as I got on board; and I wanted to return, but they would not let me—they would not allow me even to send a letter ashore.]

On the same trial there was one of the persons who was actually enlisted who deposed that the same information which Peter Rose received was given to others. This man also was a private in the expedition, and swears that the person who employed him told him that he was to be employed in the service of the Government; that he was to be carried to Washington by water and thence to New Orleans. The men who now petition Congress are persons who are placed precisely in the same situation. We find, in the course of the trial, that the person employed to enlist the men, declares that the person employing him refused to tell him for what purpose they were to be enlisted, and, of course, he could not inform those whom he enlisted.

Mr. E. said he had already remarked the extreme difficulty under which these persons labored, that they were at a distance of several thousand miles from this country, incarcerated, and friendless. He had satisfied his mind that they had engaged in this business unknowingly and unwillingly—and, what was now asked of the Government? That they should expend large sums of money for the purpose of buying them out? No. All that the Spanish Government wanted, he undertook to say, was, that a request should be made by the Government of this country for those men, and all the money required for this service, was money enough to send an agent there and facilitate his return.

Nothing had been said by him, Mr. E. remarked, of the peculiar sufferings of these men; but there were representations enough, to show that they were chained naked in a dungeon, without clothing, and without wood. Some had died and others must die. He hoped, therefore, for the reasons which he had given, that the Committee would be satisfied that these men were not guilty of crime. If not guilty, he hoped there could be no doubt that they were a proper subject for the interference of the Government.

Mr. BACON observed that the conclusion which the gentleman from Virginia (Mr. RANDOLPH) had drawn, rested upon the idea that the men were guilty. If they were guilty, they certainly should not receive the benefit of the interposition of the Government of the United States. They had no claim on the United States when considered as criminals, or as men who had voluntarily

H. OF R.

Miranda's Expedition.

JUNE, 1809.

engaged in this service. The report of the committee did not state this to be the case. I acknowledge, said Mr. B., that they are guilty in some respects, having innocently transgressed the laws. If they are guilty in the eye of justice, I contend they ought not to have relief. The report of the committee states, that, under a persuasion that the facts set forth by the petitioners were true, they were induced to submit this resolution. The committee had evidence, which they deemed competent, to prove that these men were not guilty men. In what respect, then, are they to be compared to Aaron Burr? No man will say that he did not proceed on his expedition with his eyes open, or that he could plead ignorance. The fact in relation to these men appears to be that they were inveigled; that their offence was involuntary, not as respected engaging in what they thought the service of the United States, but as to going abroad, for against their consent they were forced into the service. Therefore, with great truth, it might be said that they were scourged to the service. If this was the fact, as the committee appear to have believed, I ask, in what their case differs from that of men taken captives by the Algerines? Those men taken by the Algerines are engaged in lawful commerce; these poor men are engaged in an unlawful act, but not knowing it to be unlawful, and believing it to be correct, they are as innocent, in fact, as those who act innocently. The gentleman says, suppose they were to return to their country, would they not be punished? If the facts, as they state them are correct, as I believe them to be, I do not believe that they would be punished. The law does not punish a man because he does an act, but for the *quo animo* with which he does it.

I will remark to the House that, on this subject, we have not the legal testimony. It is required scarcely in any case by the House, much less in a case situated so peculiarly as this is. These men are, of all others, in the worst situation for procuring relief. They are confined in a dungeon; they are poor men, of poor families, who cannot act in their behalf. I perceive that they have referred to persons to whom the House might refer, to substantiate their statement of facts. One of these prisoners is a young man from the district which I represent, who had friends able to assist him. They obtained such assistance as they could. Other persons whose evidence might have been of service could not be found. Mr. B. referred to depositions taken on this subject of persons who declared that they had enlisted unwarily, believing it to be for the service of the United States, for three years, at a certain compensation per month: that when informed that they were to go on board the *Leander*, they were opposed to it, but that their suspicions were lulled by the assertion that they were merely going round to New Orleans in this vessel, where they were to be stationed.

Mr. B. said he held in his hand a letter from one who was engaged in the expedition, but was so fortunate as to escape, which stated that not

more than two persons concerned were acquainted with the nature of the expedition, but believed it to be sanctioned by the Government. The letter also stated the prisoners to be in the most wretched condition, lingering out a miserable existence, under the distress arising from the want of clothes, light, fuel, bedding, and means of intercourse with their friends. This statement, Mr. B. said, would be sufficient to draw the attention of the House to the men condemned to such an unparalleled fate. It would be very unfortunate, if, from any fear of an impression which might be produced by its interposition of the agency of the Government, in the original plan of the expedition, these men should be suffered to linger in hopeless captivity. Believing, as he did, that the committee had correctly reported, that these men were involuntarily participators in the expedition, he thought the hand of mercy should be extended to them.

MR. PEARSON.—On this occasion, Mr. Speaker, I feel a sensibility which it is not my nature to repel—a sensibility which, I trust, is manly, not merely the evaporation of ordinary feeling, or of mistaken humanity, but an impression, confirmed by the dictates of reason, of justice, of honor, and bottomed on the solid basis of nature's best gift—humanity.

We, as the Representatives of this nation, are appealed to for the relief of a few unfortunate fellow-beings—citizens of our country, whose imprudence, or, to say the worst, whose crimes have brought them to a situation, at the recollection of which the benevolent mind shrinks with horror—to the endurance of a punishment, in a foreign country, unknown to the humanity of our laws, and the mild spirit of our Government. Yes, sir, about thirty young men, citizens of your country, decoyed by the artifices and delusive hopes with which their ardent and youthful imaginations were flattered—led on by the example and patronage of men, by no means obscure, or at that time, disreputable, embarked in an expedition, the destination of which, I am induced to believe, was to them unknown—not only unknown, but, represented by their leaders, to be agreeably to the authority and laws of the United States. These young men having discovered, too late, the deception which had been practised upon them, after unsuccessful attempts at Hispaniola to escape, continued, involuntarily, in an expedition in which they were captured, sentenced, and punished as pirates—sentenced to the most torturing of all punishments—to rigorous imprisonment and slavery, and are now groaning under the weight of their chains in the dungeons of Carthage. We are supplicated to relieve those men, not by buying them, not by paying so much for each head, as has been required and complied with, in the case of captives taken by the savages of Algiers and Tripoli, but merely to express the wish of this country, to the Spanish nation, that those persons should be released, and that some pecuniary appropriation should be made, to effect this arrangement, and restore those unfortunate and unhappy men to

JUNE, 1809.

Miranda's Expedition.

H. OF R.

their native country. Sir, from the report of the committee, who have investigated this subject, and from the statement made by the gentleman from New York, (Mr. EMOTT,) I am induced to believe, notwithstanding the opinion of the gentleman from Virginia (Mr. RANDOLPH) to the contrary, that those men are not guilty, at least, to the extent which some gentlemen seem to imagine.

It appears that the preparations for this expedition were by no means secret—they were made in the city of New York, in the face of day, and, if not known to everybody, at least to a great many. It appears, also, that the real object was not known to the persons who enlisted, some of whom are now the petitioners; that they were induced to believe the enterprise was not unlawful; they did not know the character, or even the name of their leader, until some time after they had embarked, and when it was not in their power to leave him, or even communicate to their friends. It will be recollected that statements have been made, which tend to produce a belief, that assurances were given to those unfortunate sufferers, that this expedition was not contrary to the authority and will of the Government of the United States. And here it may be observed, that impressions did exist, (and I confess the impression is not altogether eradicated from my mind,) that some of the principal officers of this Government did connive at, or at least were not entirely ignorant of the principal characters concerned, or the preparations which were making for this expedition. This impression arose, I presume, from a variety of circumstances, among which may be mentioned the apparent good understanding, if not intimacy, between General Miranda and some of the officers of Government; the respect shown Miranda by the President, at whose table, I am informed, he was a guest; from the open manner in which the expedition was fitted out; from the peculiar situation of affairs between this country and Spain, which left little doubt on the mind of many, that if war did not exist, there were strong grounds to believe that hostilities would soon commence. In addition to those, the circumstances which took place on the trial of Ogden and Smith, in the city of New York, had some tendency to strengthen the suggestion. In the course of that trial, it will be recollected, by every person who has attended to it, that one of the grounds of defence set up by the defendants was, that the expedition and enterprise was begun, prepared, and set on foot, with the knowledge and approbation of the President of the United States and the Secretary of State. The disclosure of this ground of defence is sworn to by one or both the defendants in an affidavit made to obtain a postponement of the trial, in consequence of the absence of the Secretary of State, and some other persons, who were subpoenaed to attend as witnesses in behalf of the defendants. It was also strengthened by the ultimate acquittal of those men. Other circumstances, which I have heard from gentlemen of respectability, could not fail of having some influence.

The conclusions, therefore, which I draw, are, that if any of the principal officers of Government had knowledge of the object and extent of this expedition, and those sufferers embarked from a conviction of this knowledge, and from a belief that they were not acting contrary to the authority or wishes of the Government, then they are not highly criminal, if criminal at all. If the officers of Government did not know the object and extent of this enterprise, but were deceived as to the preparations and object of this adventurous and artful commander, then, how much more likely is it that those young and ignorant men should become the dupes of his artifice and design?

But, sir, let us now turn for a moment to the darkest prospect in this scene; let us suppose all that can be imagined; let us admit that those men are really guilty; does it then follow that their crime is of so deep a dye it cannot be washed away—cannot be expiated but by a punishment unknown to our laws and the mild genius of our Government? This, surely, cannot well be. Those young men are to be considered as merely secondary objects in this transaction. They are not of that description, who, from the influence of wealth, connexions, or intrigue, it would be dangerous to restore to the bosom of their country. On the contrary, their sufferings have been such as to convince them of the folly of their doings, and their tales of woe would deter others from engaging in like adventures.

The object of criminal law is rather to prevent the commission, than punish those who have committed offences; and when that is likely to be obtained, even by mercy itself, policy and humanity step in and gently stay the hand of the executioner.

Sir, is it unknown—is it untrue, that offences of the highest nature have been committed against this Government? And, is it not equally true that pardons have been extended, not only to the secondary agents, but to the principal offenders? Yes, sir, persons convicted of *high treason* have been pardoned by the Chief Magistrate of the United States; nor do I believe that any ill consequences have arisen, any sentiments of public indignation excited by this extension of mercy.

Sir, if it be not proper to pardon in some cases, why give that power to your Chief Magistrate? Every State in the Union has vested such a power somewhere; and, in the State which I in part represent, that power is frequently and beneficially exercised. Indeed, it is seldom withheld for the first offence of a capital nature, unless in the case of murder or some very highly aggravated crime.

I contend that the claim of those miserable men for the interposition of their Government, is in the nature of a petition for pardon. But, it is said, money is required; an appropriation is to be made. It is true, the pitiful sum of \$3,500 is required; not the tenth part of a cent per man throughout the United States. And, although I am disposed to hold a strict hand over the expenditures of the Government, and guard sacredly the pecuniary interests of my constituents, yet, I

H. OF R.

Miranda's Expedition.

JUNE, 1809.

must not forget their honor and their generosity. I should do every man of them injustice if I did not take upon myself the responsibility of this just, this humane appropriation. Upon the whole, I am inclined to believe those men are not highly criminal; but, whether guilty or not guilty, they have suffered enough. The honor and humanity of the nation demands their liberation. They should not be suffered any longer to linger out a dreadful existence in the dark, chilly damp of a Spanish dungeon, writhing under tortures unknown to the mild precepts of our religion, and unsanctioned by our laws.

Mr. SMILE said that the Spanish Government were already all alive to the actions of this country, and, no doubt, jealous of any appearance of its participation in Miranda's, Burr's, or any other expedition against its territories; and no doubt their jealousy would be increased when they heard a declaration that there had been in this Government a disposition to injure that nation. And shall we now, said he, by an act of this kind, confirm those suspicions which are already entertained? And will you involve the nation, under these circumstances, by an application in behalf of these men? This is sufficient reason with me to vote against the resolution. It is better that these men, supposing them to be innocent, should bear with private hardship, than that the public should receive an injury.

Mr. PEARSON observed that he regretted to hear the misrepresentation given to his language and the injustice done his motives—nothing was further from his intention than to make any positive charge of criminality against the officers of the late Administration in relation to this transaction; he had only stated impressions, the grounds of which were long ago before the public. His principal object was to demonstrate the innocence of the men who now call for mercy, and to show that if the officers of Government, with all the lights before them, were deceived by this adventurer, how much more easily could the deception be practised on those ignorant individuals.

Mr. FISK said, he was glad to understand the explanation given by the gentleman from North Carolina to show that this case did not reflect upon the Government of the United States; because he said he should suppose it a reflection upon the understanding of any man, more especially of a member of this House, if he could, with a full knowledge of all the circumstances, for a moment believe that the Government of the United States did participate in, know of, or in any way sanction the enterprise. I take this opportunity, said Mr. F., of expressing my approbation of the report, and of filling up the blank with any sum deemed competent to relieve these unfortunate sufferers from a situation more wretched than my power over the English language will suffice to describe. It is said that these men are guilty, and what is there to support this belief? Nothing but the declaration of the member (Mr. RANDOLPH) who asserts it. What constitutes guilt? The *quo animo* with which an act is performed. What evidence is

there of guilt in this case, more than that these men were taken on the coast of the Spanish Main in an enterprise against that colony? Does it therefore follow, that they were guilty? If they were surprised into this situation against their wishes, against their power of resistance, they were not guilty. In giving my opinion on this subject, I will say, that it never fell to the lot of mortals to be more perfidiously betrayed, more cunningly dealt with, or more harshly treated than those who now petition their country—their country, I say, because they are entitled to relief from us, unless they have forfeited their right by this act.

Only one word will I say, of the acquittal of Smith and Ogden; the perusal of the evidence, arguments, and verdict of the jury in that case, has long ago convinced my mind not only of the propriety, but of the necessity of instituting an inquiry for the purpose of insuring an impartial trial by jury.

It may be, and has been asked, how it was possible that a ship of this description could be fitted up in the face of day in New York, without the knowledge of the Government or its officers. The evidence on the trial will answer this question. When it is recollected that the vessel was owned by Smith and Ogden, that it had been employed for some years in carrying on a forced trade with St. Domingo; that the vessel was armed, and that her complement was one hundred and twenty men; and, in addition, that one of our revenue officers was concerned, it is no longer a cause of surprise. But the revenue officer acted with great caution, as it became necessary to further his design or that of Miranda; for, had their intentions been known in the city of New York, they would have been defeated. Mr. Smith therefore engaged these men, not in this enterprise, but, as they honestly believed, in the service of their country. They understood that there were some to go to Washington, and guard the mail, others to go round to New Orleans, and for various purposes; but it was never intimated to one of them that they were to be employed in an hostile expedition against any nation whatever. It was no very difficult matter to cover such an equipment. Application was made to the insurance office to have insurance done, not for a certain place, but for a certain latitude. A considerable quantity of arms that were on board were got on board unknown to the Government or to the officers of the port, as they were not inserted in the manifest. It was unknown to the sufferers what was the destination of the army till the 19th of February, when they made the island of Jacquemel. To their utmost astonishment they then found themselves driven in a different direction from that which they expected. They remonstrated, and attempted to escape, but in vain. They were compelled to go on board the *Leander*, under the authority of Miranda and Captain Lewis. Another circumstance of weight in their favor is, that, in the trial which was had at Caraccas, the evidence produced against them was not sufficient, in the opinion of the Spanish Government,

JUNE, 1809.

Miranda's Expedition.

H. OF R.

to convict them of having knowingly taken a part in this business. The officers being accessory to it, were executed. But, inasmuch as it was necessary to hold up an example, not so much to foreigners, as to their own citizens, it was found necessary to punish and confine these petitioners. If it appears to this committee that these men are innocent, are we not willing to interpose for their relief? If I did for a moment believe, that they were guilty, or had any doubt that they were innocent, I would not advocate their cause. But, believing, as I do from a thorough acquaintance with the facts, that they were entirely innocent of any intention of carrying on a hostile expedition against any nation or against the laws of their country, that they were betrayed by the arts of men who ought to have suffered more than they yet have, I am willing to assent to this resolution.

Mr. J. G. JACKSON said, he recollected that when the subject was under consideration before, he had an objection to the motion; that he saw an evident impropriety in squandering money on these persons, whilst the old soldiers of the Revolution were yet unprovided for and in distress. But, said Mr. J., if the statement made by the gentleman from North Carolina (Mr. PEARSON) be correct, we ought to indemnify them. There are cases in precedent. Captain Little made a mistake in the character of a national vessel, and the Government remunerated the expense occasioned by the error. If the Government has by any connivance or act of theirs encouraged an armament within the United States, they ought not only to indemnify the sufferers but to make a full inquiry into the facts. I do not know the method of doing it, but I believe if there was any manner of bringing the gentleman to the bar to exhibit and substantiate his charge, it ought to be done. I would ask, if any new testimony is forthcoming in addition to that on which the House at the last session, made a solemn decision?

Mr. McKIM said, that he had not the honor of a seat in the last Congress, and consequently could not be expected to have any knowledge of what was then done.

Mr. BACON said, that the gentleman from Virginia (Mr. J. G. JACKSON) could not be serious in his observations, as to what had fallen from the gentleman from North Carolina. If indeed, the gentleman would state a thing upon his own responsibility, in a form in which the House could act upon it, it ought to be noticed. He believed, however, that the gentleman would not undertake to make such a statement; he must have too much respect for himself to do it. Mr. B. said, he believed that if the proposition for the relief of these poor fellows was lost, it would be by means of the gentleman's speech in their favor, and he was extremely sorry for it.

Mr. MACON expressed his disapprobation of the manner in which Mr. JACKSON had noticed Mr. PEARSON'S remarks. He regretted much that his colleague had used such words; and he was sorry that such comments had been made upon them. He had heard such things before; he heard them

last session, and those who took part in them were as tired of the business as those who were compelled to hear them. It is well known, said Mr. M., that I am not in the habit of making invidious remarks; but I will observe, that my colleague (Mr. PEARSON) has not long taken his seat in the House, and, being a young member, that a little forbearance on his part would be very proper.

Mr. J. G. JACKSON said, he had not reprehended the gentleman's remarks. He meant to say that if they were correct, (and the House ought to inquire into their correctness,) he should come to a very different conclusion on this proposition from what he otherwise should.

Mr. MACON said it had not been the practice of the House to call to the bar of the House any member for what he should say in debate. If I (said Mr. M.) believed that the President had connived at an act which I do not hesitate to avow that I believe he did not, I should feel myself justified in stating it. I for my part never will give one cent of money out of the pockets of those whom I represent, for the relief of those who would enlist with Miranda or any other foreigner. Gentlemen may talk about the innocence of these men. I do not believe that they were innocent. They knew what they were about; the papers of the day were filled with accounts of the great fortunes which they were to make, the hope of which no doubt induced great part of them to go on the enterprise. In proportion to the freedom of men, and of course to their power of intriguing, ought we to guard against such men as these. I feel no compassion for them, no more than I would for a man about to be hung for a crime which merited the punishment of death. I might feel compassion for such a man when seeing him going to the place of execution; but I would never put my hand to a petition for the pardon of a man who had committed murder. Their own word is taken for their innocence. Take his own word for it, and no man was ever guilty. Remember, sir, how many conspiracies you have already had in this country. They began ten years ago to disturb the country; and yet these offenders are to be called peaceable and inoffensive men! The history of all free Governments exhibits the same thing. I have no feeling for them, I repeat. I do not want them back. I wish that they and all other citizens of this country, rich or poor, who would follow the Mirandas, or any other adventurers, were out of it. If all these men, except Captain Lewis and Miranda, were innocent, they have very little of that American feeling which characterizes our citizens and seamen in general, or they would have knocked their employers overboard when they could get to a place where they could do it securely. If their failing to do so is no proof of their guilt, they have been convicted of the crime, and that is certainly some proof. It is true they were treated not quite so bad or a little worse than those who were hung—for I am at a loss to say which fate I should have chosen.

Sir, there appears to be more interest excited

H. OF R.

Miranda's Expedition.

JUNE, 1809.

on this question than ever was for the fate of any of the many American seamen whipped to death on board British ships of war. Why all this sensibility for this sort of people? I do not want them, sir. They were employed to go—where? With Miranda, they did not know where. I do not believe that any man in the nation could be stupid enough to believe all the stories that are said to have been told them; that they were to be put on board a ship to go to Washington, to guard the mail to New Orleans; as though men could be put on board a ship with a large armed force for that purpose. Those who have more faith than I may give credit to the tale.

We have had a great deal of law on this subject, sir, as we often have; and I would not care that I had a little of it, for I think it helps out a bad cause. It is said that the law only punishes the intention. I say we have nothing to do with these men or the degree of their crime. They are at Carthagená, and there let them stay.

We are asked to appropriate \$3,500, for the purpose of sending for them. Is it possible that \$3,500 will be sufficient to send a negotiator to negotiate with the Junta, with Ferdinand, or with Joseph? If it is, we shall send a Minister at less expense than we have ever done before. But put down fifty cents in the appropriation bill, and it will be as adequate as any sum you can name. Begin the work, and you must finish it; that is the short and long of it. It is not the money, though a very good thing in a Government, that I object to. I want all American citizens to know that if they engage in any nefarious transactions, by which their fellow-citizens may be involved in war, the nation will not extend its hand to relieve them from any difficulty they may get into. Let them follow Burr, Miranda, or any one else, and share their fate. The responsibility is as great if you take a cent from the Treasury as if you take a million. I am a thorough-going Committee of Claims man; I will not pay a cent but on principle.

In the neighborhood in which I live we scarcely know law; but, as I understand, a man will be hung for stealing a horse. And notwithstanding all the fine-spun theories on the gradation of punishments, I believe that there are more rogues elsewhere than with us, where we now and then hang a man. I always have contended that the power of pardon is one which in the nature of it will be abused. I had rather always give men a chance, and let them run away.

We are told, too, that these men were opposed to going on board. If so, how did they get on board? Could they not have applied for a writ of habeas corpus? Were there no lawyers, justices of peace, or judges in the city of New York—or were they so totally ignorant of the laws of their country that they did not apply for it? The committee have told us that they are under a persuasion that the allegations of these men were true. This however seems to be wholly a matter of faith, for they have given the House no documents on which they grounded their belief. Sir, I have no faith. I believe if they did not want

to go on board they would have got a writ of habeas corpus or some other relief.

This project of the invasion of South America is about twenty years old; something like in England, what was a popular theme among the common people, getting rich in the war by Spanish prizes. And whenever we go to South America, we shall get rich just in the same way. How was it possible that in such a city as New York, where people frequently meet and converse one with another, people should be so totally ignorant of their rights as to suffer themselves to be put on board a vessel without their consent by General Miranda, who had not been here more than six months? I do not doubt the sincerity of the faith of other gentlemen; but I must have my own. The same story does not appear to have been held out to any three of them; but these men are all together, and have an opportunity to compare notes; and it seems that they agree that General Miranda, who was at the head of the gang, assumed the name of Martin. If these men were so averse to the Spanish expedition, why had they not common sense? They would then have told the Spanish Government that they were trepanned and had in vain attempted to make their escape, being compelled to serve in Miranda's expedition. They might then all, or many of them, have escaped punishment.

I had thought that the British Government had owned Miranda—and I believe the late Administration never were charged, whatever else was alleged against them, with acting in concert with the British Government; and I thought that the exposure of this transaction on the trial of Sir Home Popham had completely cleared the American Government from any suspicion of an agency in it.

It has been said that these men are Americans, and entitled to the protection of the nation. I do not doubt that they are Americans by birth; but they have not American feelings. I think less of such men than I do of the foreigner naturalized here, and who yet feels for the country of his birth. This Government was too free for them, and they wished to attach themselves to the fortunes of a foreign despot. They did so; and I am unwilling to give one cent of the public money to relieve them from the situation in which they have placed themselves.

On a motion that the Committee rise, there were for it fifty-two, against it fifty-one. The Chairman tied the vote.

The Committee refused to fill the blank, 49 to 38. The resolution was then agreed to, 43 to 41.

The Committee having risen and reported, the House adjourned.

WEDNESDAY, June 14.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill to relinquish and remit the claim of the United States to any moneys arising from the condemnation of the ship *Clara*, late the property of Andrew Foster and Jacob P. Giraud; which was read twice,

JUNE, 1809.

Maritime Jurisdiction—Miranda's Expedition.

H. OF R.

and committed to a Committee of the Whole to-morrow.

Mr. NEWTON, from the same committee, to whom was referred the petition of Andrew Foster and Jacob P. Giraud, also reported a detailed statement of the facts relating to the case of the petitioners; which was read, and referred to the same Committee of the Whole.

On motion of Mr. MORROW, the Committee on the Public Lands were discharged from the further consideration of the report of the Governor and Judges of the Territory of Michigan, referred to them on the sixth instant.

MARITIME JURISDICTION.

Mr. DANA observed on the importance of distinctly ascertaining the maritime jurisdictional line of the United States. He said that the present distance from shore, within which immunity from belligerent search was allowed, was a maritime league. He believed that, as respected the interest of the United States, it was at the option of Government, without any stipulation by treaty, to take a wider range. As respected the distance of a marine league from the shore, of immunity from capture, it might be claimed in any case by the Government of this country, and by all neutral Powers; but for the purposes of Government itself, without being pledged to any other Power, he contended that Government had another claim which it might assume whenever it considered it expedient. Immunity from belligerent seizures might be claimed for a maritime league in every supposable case by a neutral Power. Beyond the distance of a maritime league, in favor of commerce or public revenue, it was at our option to extend the jurisdiction of the United States over all anchorage grounds contiguous, and over all the waters within the headlands along the shore. Viewing it as an optional privilege which the Government of the United States might exercise, he thought it would be clearly for their benefit so to do. He said it would doubtless be recollected, that we had often heard much of the violent death of Pierce, and similar aggressions, but we had heard of no attempt to prevent such in future. His object would be to prevent a recurrence of such collisions. In order to bring this subject before the House in such a manner as could not possibly affect any negotiation now carrying on, he moved as follows:

Resolved, That a committee be appointed to inquire into the propriety of adopting any legislative provision respecting the extent of the maritime precincts of the United States, and the safeguard of navigation within the same, and whether, in addition to the existing provision against captures within a maritime league from any part of the shores, it would be proper, by law, to authorize the President of the United States, for the benefit of the commercial interests or revenue thereof, after causing reasonable notification to be given, when he may deem it expedient, to prohibit foreign armed vessels from seizing or molesting any coasting vessel or merchant vessels bound to or from the United States, whenever the same may be in any of the roadsteads of the United States, or in any other waters within sight of land, and within lines extending from one cape or

headland to another, along the coasts of the United States; and that the committee have leave to report by bill or otherwise.

The House agreed to consider the motion—51 to 20; and passed it without debate—59 to 21.

Messrs. DANA, ROOT, WHITMAN, COBB, and McKEE, were appointed a committee pursuant to the said resolution.

MIRANDA'S EXPEDITION.

On motion of Mr. McKIM, the House resumed the consideration of the unfinished business of yesterday, being the following resolution:

Resolved, That the President of the United States be requested to adopt the most immediate and efficacious means in his power to obtain the liberation of the prisoners, *if it shall appear to his satisfaction that they were involuntarily drawn into the unlawful enterprise in which they were engaged*, and that ——— dollars be appropriated to that purpose.

Mr. UPHAM moved to strike out the words in italics.—Motion lost—ayes 35.

Mr. ROSS said he had revolved this subject in his mind with a view to deciding his vote on it. At first it had appeared to him somewhat doubtful whether it would be proper to take any measures to rescue our unfortunate fellow-citizens. The first objection to this measure which presented itself to me, said Mr. R., was, that it might probably produce an effect calculated to bring others into similar situations, and operate as an encouragement to such expeditions. The next objection which occurred to me was, that it might be proper, on an occasion of this kind, that an example should be exhibited to the citizens of America to show that, whenever they attempted to commit the peace of their country, they would be abandoned to their fate. Further reflection, however, satisfied my mind that neither of those objections is sufficient to induce us to reject the resolution now under consideration.

As to the first objection, that it might hold out an encouragement to others to set out on similar expeditions, I think the severity with which those unfortunate persons have been punished, the sufferings they have undergone, the death of part of their companions, have been such a warning to our fellow-citizens, that nothing is required but that those sufferings should be made known to the country to hold up a warning to future adventurers. How could this fatal precedent operate with equal force as by procuring a return of those unfortunate men to tell the mournful tale to their friends, to tell the difference between the wise and mild administration of the laws of the United States and the liberty of the citizens under it, and the administration of those of the despotic government under which they were punished. A lesson would be taught such as could be taught perhaps in no other way, and which would produce a salutary effect on the minds of our citizens, receiving wisdom from the mouths of those who had obtained it by fatal experience. In that point of view I feel disposed to listen to their prayer.

Another objection to this proposition was, that it was necessary on this occasion that an example

H. OF R.

Miranda's Expedition.

JUNE, 1809

should be made, and that this Government should show to the world that they disapprove of proceedings of this kind, and therefore they ought to be abandoned to their fate. Have not examples been made? Have not ten of those men atoned for their offence by their lives, their heads being stuck on pikes and carried through the country? Great indeed must be that thirst for example, haughty and proud that unrelenting spirit, which can be appeased by no atonement of this kind. To me it would appear that atonement was made by the execution of ten individuals; and that by the punishment inflicted on the survivors, atonement has been made sufficient to satisfy the least humane member of society. I therefore suppose that the example is already made, and the men are sufficiently abandoned to the fate which they brought upon themselves.

Before I sit down, sir, I will endeavor to take notice of some of the observations made in the course of yesterday, when this subject was under discussion. I am well aware that men conscious of their own virtue and integrity have less sensibility than those who feel their own failings, towards the misfortunes of others. And while I admire the firmness of the nerve that is steeled to all the feelings which actuate the human heart, I cannot for myself avoid those sensations which are so intimately bound round our hearts by nature's hands. If, therefore, in my vote I shall err in the opinion of cool reason, unadulterated by the finer feelings of the heart, I shall find consolation for the error in the satisfaction of my own breast. I know that in Governments it is right to be actuated by principles of policy and a sound exercise of reason. But a question has arisen whether it be sound policy to adopt the resolution. None of the gentlemen who have spoken have satisfied my mind that it is objectionable on that ground. It seems from the observations of the gentleman from North Carolina, (Mr. MACON,) whom I congratulate on his feelings, that he views the ebullitions of youth and the follies of inexperience with indifference. He will not hold out the hand to the child which has been led into difficulty. I congratulate the man who possesses those kind of feelings. It would with propriety in my opinion be said that the gentleman might wish he was acquainted with law, supposing it calculated to support a bad cause. The cause in which he was speaking required such support, and therefore his desire is not an unnatural one. What were the objections which were made? Were they of a singular kind or were they bottomed on sound principles of policy? To what part of the able argument of the gentleman can you turn your attention and say, that therefore it was impolitic to proceed on the resolution on your table? I endeavored to attend to everything said by the gentleman, and perceived nothing in what he said which had the least tendency to show that it was an impolitic measure. Was it pretended that it could place the Government in an improper situation? It has been said that it is taking money out of the pocket of the Government to relieve villains. This is assuming a point;

I would call misfortunes by a milder name. I would say it was to relieve men led by the follies of youth, and misled by men some of whom were of high repute in the country. When you place the question in this point of view, it appears to me that it wears a very different aspect. I would not with the gentleman say that I would take away the power of pardon, that I would not leave a power of clemency because it might be abused. This would do away all law, because all laws to protect innocence are liable to abuse. It would go to the root of legislation itself.

I would not object to the principles of the resolution, because there were mingled in it some of the principles of mercy. I know that stern virtue may plume itself on sitting aloof from the frailties of human nature: but I also know that every man who has had occasion to associate with his fellow-creatures has had frequent opportunities of knowing the necessity of making great allowances to each other. When Col. Smith, a man high in the estimation of his country, and appointed to high and respectable office, launched into the scheme, and others who are not generally known, when these persons engaged in a plan to entrap men into their schemes, shall it be said that men so entrapped had acted like villains? Will gentlemen say if these innocent men have been led away by the machinations of wicked men, that we should abandon them to their fate? I hope in this country there is too much feeling for the frailties of human nature generally, ever to sanction such a doctrine. Were this case stated to the people of the United States, and an appeal made to their feelings, I venture to pronounce that three-fourths of all our fellow-citizens would be in favor of our making exertions for the release of these men. They were not in the secret of the expedition. The gentleman from New York, (Mr. EMOTT,) who spoke in a very clear manner, showed, that they were blindfolded, carried into the scheme without knowing its object. It may be said that it was their duty and business to know it. Sir, no prudential motives influence young men in general. Do you expect from them conduct different from their nature? Young men are always aspiring, enterprising. They were, under the influence of Col. Smith, Mr. Ogden, Captain Lewis, and Mr. Fink; led into a measure from which they were induced to expect much benefit, inasmuch as they were to be well dressed, fed, and to have no fighting to do. They did not inquire how it was to be accomplished, because they saw Mr. Ogden employing an independent fortune on this plan. If he would launch his fortune in the enterprise, was it to be supposed that young men would inquire deeply into the matter? Neither till they had been on board of the *Leander* six days, did one-third of them see Miranda. He never appeared to any of these persons at all till they were placed on ship-board. They were carried to Jacquemel, and then saw too late, they were destined to a purpose which they had not understood.

Gentlemen say that the pretences on which these men were engaged were too ridiculous for

JUNE, 1809.

Miranda's Expedition.

H. OF R.

belief. Was there not reason to believe that there was danger in our southwest country? And if so, was it extraordinary that a guard should be wanted for the mail? Others were led to believe that they were to do other acts; but till they arrived at Jacquemel they had no idea what was their destination; and after they arrived there they were not told the design of the expedition, that it was to revolutionize the provinces, or what was the nature of the expedition. Here however when they attempted to rescue themselves from their situation, they were closely guarded, and kept under strict discipline. A part of them attempted to make their escape, but after passing ten miles were overtaken and sent back to their ship. Here then is evidence beyond doubt that these young men never entered into this enterprise with any view to attack the Spanish territory. Perhaps, according to the opinion of some gentlemen, a man may be guilty without knowing of his crime; but, according to my ideas, a man must be conscious that he is about to commit some evil act, to stamp criminality on his proceedings. Thus the leaders who conducted this enterprise were guilty, and it is a misfortune to the country that they were not brought to punishment. We see these subordinate persons abandoned by the men who deluded them; we see them lingering in dungeons without clothing, and perishing for want of the common sustenance of life. Can any American, any man possessing feelings common to the human heart, say that he can view them without sensations of pity? The American captains who have been there, advanced them money out of their own pockets; they could not see their distress without shedding tears. And shall this House steel itself against those sensations? Shall it say in cold laconic terms "let the villains suffer." My language should be—

"Teach me to feel another's wo,
To hide the faults I see;
That mercy I to others show,
That mercy show to me."

I call upon the fathers of the people, who now alone can help them, to step forward. For what good will you suffer them to expire in these dungeons? Why let them remain there to be insulted and oppressed by a domineering people? I hope we shall not do it. Shall it be said that the paltry sum of three thousand five hundred dollars shall be an obstacle to the relief of those men? I hope, sir, that we shall not act on the cool maxims of policy laid down by the gentleman who oppose it. The adoption of it will return these persons to the bosoms of their friends and families to tell the dreadful tale to their countrymen, to warn them of the danger of entering into expeditions against the public peace, and teach them the difference between the mild laws of the United States and the despotic laws of other countries. It will teach them a lesson calculated to produce much good, in my opinion, and to do no harm.

Mr. TAYLOR said if he could view this subject in the light in which it had been viewed by most of its advocates, and particularly by the gentle-

man from North Carolina, (Mr. PEARSON,) he should think it was the duty of this Government to make exertion for the release of these people; but even then he should inquire whether any exertion in their favor would not rather do them an injury than a service; for it would be recollected that every gentleman who had spoken seemed to consider the mercy which was asked to depend upon and to be bestowed by the United States. Were I a Spaniard, and attended the debate in this House, I should think that gentlemen in favor of the resolution contemplated an infraction of the rights of the nation before whose courts, and by whose laws these men were condemned.—These fine appeals to mercy and humanity would apply well before the Power possessing the right to bestow mercy, but are not applicable to the feelings proper to be exercised on this occasion by this House. I say that it is one of the attributes of Government to punish those who have infringed or broken the laws of the country. These people have been condemned by a Spanish tribunal; it is by that Government alone that mercy is to be shown; and an exertion by this House in attempting to bestow mercy upon these people is an infringement of that right. I challenge gentlemen to show me an instance in the annals of diplomacy of a like nature with this proposition. I recollect one instance, but I have heard no gentleman propose to go so far. Oliver Cromwell, when a member of the British Commonwealth was imprisoned by the inquisition, ordered his admirals to draw up before the harbor and demand his release. This is the only case I have met with in the course of my reading, of an attempt by one nation to relieve criminals condemned by another nation under its own laws. If this view be a just one, it certainly becomes a matter of great delicacy. If this Government had never been by the most secret whisper implicated (unjustly as I firmly believe) in this transaction, still it would have been a subject of the greatest delicacy for the Government of the United States to interfere. What will the Government of Spain, Junta, King, or Governors of Spanish provinces to whom you apply, say to you on this subject? Why they will say—"We have long suspected, we have heard from your own quarter, that you were implicated in this expedition; you now give us proof; you have come forward in an unprecedented manner and interfered in a case with which you have no business, a case which is fully embraced by the sovereignty which we ourselves exercise over our own courts." Will it not at once be inferred that these assertions throughout the United States had been true, and that this Government was implicated or concerned, or, to use the words of yesterday, that this Government had connived at such an expedition? You will but render the sufferings of these people more rigorous. It is not to be conceived, although the gentleman from Massachusetts and others have acquitted the Government of participation, that the Spanish Government will do so also. Why, even in our cool and calm situation, you see that suspicion of the

H. OF R.

Miranda's Expedition.

JUNE, 1809.

connivance of the Administration is not yet quite done away—and do you suppose, sir, that the Spaniards, against whom repeated expeditions have been made, at a distance from those sources whence conviction might flash upon their minds, will form the same opinion of the subject that we do? Fear forms a bias on their mind; and we form a conviction on the side on which we feel interested.

Gentlemen, in order to induce us to grant pardon to these men, which we have no power to do, have told us that they are innocent; because, forsooth, they themselves have said so. I recollect, sir, once in a conversation with a most eminent barrister in the State in which I live, who had often performed the duty of counsellor and advocate in our State, he informed me that in a practice of thirty years, in the course of which he had been concerned in the cases of many culprits, on many, nay, on all occasions he put this plain question to his client: "I am your counsel; it is necessary for me, in order to make the best possible defence of your cause, to make the best statement in your favor, to know whether you are guilty or not." He declared that he had never yet met with a man who acknowledged that he was guilty. I believe that this disposition to appear innocent is inherent in human nature. It is natural for these men to say that they are not guilty; they said so to the court before whom they were tried. Why were they not liberated? why was not that mercy which is so pathetically called for bestowed on them by that tribunal before whom the case was examined? If they are the immaculate and almost sainted victims which they are described to be, why did not the court which heard the testimony on both sides of the question bestow that clemency asked of us? I should presume, that when all the circumstances came out before the court, they were not favorable to the petitioners; and it is a respect due from this Government to the acts of that Government that such a construction should be put upon this matter. If we are to distrust the acts of the Spaniard, because, as we are told, he is vindictive and cruel, he might justly say that we have not done to others as we would be done by.

We should place the President of the United States in a very unpleasant situation indeed by requiring him to demand these men, if we would not also be willing to go to war for them. As our navy is now afloat I would propose as an amendment to the project, if gentlemen are serious in their determination to rescue these men, that our fleet shall sail before Carthage and compel the Spanish Governor or Junta to give them up. This is the only mode of interfering with a matter of this kind, which is sanctioned by precedent, as I have before stated.

It would seem, sir, as if the passing scenes of this world were entirely forgotten. The British Government has been suspected of having connived at this expedition as well as the Government of the United States; They have received Miranda into their bosom; and on the examination on the trial of Sir Home Popham it did ap-

pear that he had received orders to sail for a particular port of that Continent to create a diversion of an attack expected to be made in another part of it. But what have the British Government done on the subject? Have they not considered it a delicate one? Have they not in their conduct given us the most sound and wholesome advice on the subject? Although I believe these men were employed to answer a purpose all important to her, yet she has not extended towards these sufferers in her own cause that clemency which is asked at our hands. These men who were suffering in her employ, demonstrably acting in furtherance of her interest, have not met with the clemency of the Government; and the case is more strong when it is recollected that since the capture of these men, although previously at war with Spain, Great Britain was not only at peace but in alliance with that nation. With all these favorable circumstances, when but a hint from the British Ministry in favor of these people might have released them, yet being so delicate a subject that it has not been touched by them, shall we, who have been crusading and exerting every nerve for the release of our seamen, and with all our efforts have been unsuccessful, shall we start on a fresh crusade for these men, when the efforts of the Government in the other cause, in so noble, so just, and so humane a cause, have as yet proved unavailing? Shall we engage in a contest for these people, who are acknowledged justly to be in the power and under the sentence of the courts of another nation, whilst the honest American tar, guiltless of harm, is writhing under the lash of every boatswain on board a man of war? If you will go on and reform the whole world, begin with one grievance first; to use a homely phrase, do not put too many irons in the fire.

Sir, if the Spanish nation has any feeling for its sovereignty, it would spurn your request. Only suppose that nation to possess the same feelings which actuate every breast in this House; which actuate the American people. Suppose the claim of Mr. Burr to citizenship in Britain, on the ground of once a subject always a subject, had been recognised by the British Government. Suppose that he was suffering in chains in some of your prisons, and because they had heard that Mr. Burr might have been innocent, the British Government had asked his release, would not the people of America have spurned the request as an indignity to the nation? And may we not suppose that these proud Spaniards, as they are called, may have feelings of a like nature? I believe, sir, that the course proposed would only add rigor to their sufferings, weight to their chains.

But it seems that these men are to be called back to the country to tell the tale of their sufferings and horrors. Now, sir, I suspect from the feelings which the gentleman from Pennsylvania (Mr. Ross) himself has shown, that other feelings would be excited; that if they return they would bring back with them resentment against those who punished them; they would return

JUNE, 1809.

Miranda's Expedition.

H. OF R

with information of the state of the country; your interference would convince them that, no matter how nefarious a plan might be, this nation would again stretch out its arm to protect them, and like the petty incursions which the Danes in former days made on the British coast, whatever hard blows are received will only be the motives for a larger band to follow. If the people of the United States would not believe Moses and the Prophets, if they would not already prefer the dull pursuits of civil life to these nefarious piratical expeditions, they would not believe it though these men with their chains came back and told it; though one should rise from the dead and tell it.

On this subject there is but little interest excited in the nation. What have you on the table? What is it that has caused so much debate? The single say-so of these men, themselves implicated in their own testimony. We have no petition from the city of New York, or even from the State, nor from the neighborhood whence the gentleman from Massachusetts (Mr. BACON) comes. The sympathy is all in this House, and whence proceeds it? I charge no man with illaudable motives, but certainly the most noble and godlike motives might be attributed to gentlemen in one quarter of the House from their advocating the proposition, according to the hint given by the gentleman from North Carolina that the Government ought to interfere now, as it was supposed to have connived at it, and no wonder that it excited sensations in another quarter of the House. I thank gentlemen for the intimation which they have given us; it is the same as I would give on any occasion on which I had the feelings which I know that gentleman honestly has on this occasion. I say, sir, that this Government has nothing to do with it; that to pass the resolution would be interfering with the sovereignty of another nation, and in a manner which would only expose our Executive to an insulting reply. The Spanish Governor may justly reply as Brutus to Cassius, "You wrong yourself to write in such a cause."

Mr. LIVERMORE asked if the committee which made this report had not before it evidence that certain British subjects concerned in Miranda's expedition had been liberated on the application of some officers of that nation? If they had, it would be a fair answer to the eloquent speech of the gentleman from South Carolina.

Mr. RANDOLPH said he did not think that the information asked for by the gentleman was at all material to this case. It was a matter of no consequence at all, as respected the statement made by the gentleman from South Carolina on (he had no doubt) very good grounds. What, said Mr. R., has been the situation of Great Britain in relation to Spain? Great Britain, at the time the expedition was undertaken, was an enemy of Spain—was at actual war with Spain—and therefore in a subject of Great Britain it might have been highly meritorious to annoy Spain, either at home or in her colonies to the utmost extent in his power, without any direct

authority from his Government. Subsequently to that time, however, Great Britain has become the ally of Spain in consequence of the revolution; and at that time Great Britain obtained from persons exercising the authority of government in Spain the release of these prisoners, which it is perfectly natural Spain should then have granted. But suppose, instead of that change having taken place in the relations between Great Britain and Spain, Bonaparte had quietly succeeded in putting King Joseph on the throne of Spain and the Indies, and application had then been made; or suppose that the application had been deferred until now, and the power of the House of Bonaparte was as complete over the colonies in South America as we have every reason to believe it is over the European possessions of the mother country, would the British subjects in that case have been released? It is an unfortunate circumstance that no question can be agitated in this House and tried upon its own merits; that everything which is, has been, or may be, is to be lugged in on the question before us, to the total exclusion of the merits of the case, and in this way, instead of a session of three and six months for doing the business of the nation, if every question is to be tried in the manner in which it appears to me this has been, we may sit to all eternity and never get through it.

I lay no claim to greater precision than other men; but really I cannot perceive what kind of relation, what kind of connexion exists between most of what I have heard on this subject, and the true merits of the case. Gentlemen get up and abuse the Spanish Government and people, and what then? Why, it appears all this is preliminary to our making an humble request of this Government and people that they shall grant us a particular boon. To be sure, sir, all this time we do plaster ourselves unmercifully—we lay it on with a trowel—and gentlemen seem to think that if we sufficiently plaster ourselves, our President, and people, and be-devil every other Government and people, it is sufficient to illuminate every question. And this is the style in which we speak to Governments perfectly independent of us!—A very wise mean, to be sure, of inducing them to grant the pardon of these people as a favor to us. Sir, it would be a strange spectacle, to be sure, when this Minister that is to be, this sort of anomalous messenger whom you are going to send, I know not exactly to whom; whether to the Junta, or persons exercising the power of government in the provinces, or to the Government in Europe; when this Minister goes to Carthagea or elsewhere, if he should carry to the Viceroy along with his credentials a file of papers containing the debates on this question. Why, sir, like Sir Francis Wronghead, we appear all to have turned round. My honorable friend, the gentleman from South Carolina, (Mr. TAYLOR,) spoke of the crimes of these men. Gentlemen on the other side, who wish them to be pardoned, tell you of nothing but of their innocence, and the injustice of those who condemned them and now have them under punish-

H. OF R.

Miranda's Expedition.

JUNE, 1809.

ment. Two more such advocates as have appeared in favor of this proposition would damn the best cause ever brought before any House or any court in Christendom. The gentleman from New York, (Mr. EMOTT,) who spoke yesterday, certainly very pertinently, and very handsomely, tells the House that in this case no other money than that of the United States will be received; that, with a sort of Castilian fastidiousness, those persons acting for the Government of Spain will not touch any money which shall not be offered in the quality of public money. I believe no such thing; and moreover I wish it to be distinctly understood that the question of money is not the question with me; and that to suppose it necessary for the Government of the United States to interfere for the purpose of raising so pitiful a sum as \$3,500 for the relief of these unfortunate men, whose situation I most seriously deplore, is a libel upon the charity of this country. I believe, notwithstanding the public impression on this subject against the petitioners, that the money could be raised in half an hour in any town in the United States. I believe it might be raised in that time in the city of Washington. It is not a question of the amount of money wanted; it is, whether the Government of the United States shall lend its countenance to persons situated as these unfortunate people are? Sir, had we at that time been at war with Spain, as Great Britain, something might be said in favor of these persons. But we were not at war with Spain, and these men knew it; and I believe they knew at least as well as I know, that when a man is recruited for *public service*, as they say they thought to be their case, he is immediately taken before a justice of the peace and sworn. This part of the ceremony, however, is not stated to have taken place. To be sure, sir, the gentleman from New York (Mr. EMOTT) said, I believe, everything that could be said in favor of those unfortunate people, and really almost convinced me that we ought to make this interference; but unfortunately for him and for his cause, other advocates rose up in its favor and placed the subject in a situation not only as respects the majority of this House, but as respects that Government with whom intercession is to be made, which will completely foreclose any attempt at relieving the sufferers. It is not possible that the majority of this House, or that the Spanish Government, can be affected in any other manner than with disgust and indignation at such stuff. The gentleman from New York told us that these were ardent young men, who were anxious to go to Caraccas for the purpose, I think, of correcting the despotism which existed in that country; or otherwise, political Quixottes. This, I take it, will operate little in their favor with the Spanish Government, however it may in ours. I confess I feel very little sympathy for those who, overlooking their own country, and the abuses in their own Government, go in search of political adversaries abroad—go a tilting against political despots for the relief, I suppose, of distressed damsels compelled to live under them.

Sir, I could not have been induced to say anything more on this question, for I stand in a very invidious position, not at all congenial to my feelings, being compelled to rely on my judgment for support against my feelings. Nothing could have induced me to rise but the very unprecedented manner in which the oldest member, and certainly not the least respectable in this House, has been treated, and the manner in which some *assertions* (if you will) of mine have been met. It has been stated by a gentleman in his place, that the only proof of the guilt of these persons consists in my declaration to this effect; the naked assertion of one, too, who knows nothing of their innocence or guilt. Let us bring this *naked assertion* to the standard of common sense and common honesty. Were the ringleaders in this expedition condemned, and did they suffer death on *my assertion*—an assertion long posterior to the fact? Were the unhappy men now condemned to imprisonment and hard labor convicted on *my assertion*, on my assertion too, of *yesterday*? Or, is it so extremely unpardonable for any one to infer the guilt of the accomplices in any transaction, no matter what, wherein the ringleaders have been acknowledged universally to be guilty, have been brought to trial, and have suffered the punishment of their crime? Does not the *onus* in this instance, although it be in the negative, lie on the condemned? What, sir; they go on an expedition against South America under General Miranda, and, with others, are taken, the ringleaders executed as pirates, as *hostes humani generis*, as they really were, and these men are to be averred to be innocent men, the only proof of whose guilt consists in the declaration of an individual who has considered them as guilty men, but who feels not the less for them because they have been guilty? In this style is this question to be discussed and decided? One gentleman asserts that the men are perfectly innocent, that the only proof of their guilt rests on the declaration of an individual; and another asserts that they are guilty only under the unjust and arbitrary principles of the Spanish Government, when we have it in proof—the strongest proof that the nature of the case will admit—that, if they are not guilty men, something not much less than a miracle must have been worked in their favor. From the description of their situation given by the gentleman from Massachusetts, on whom, and on the gentleman from New York, (Mr. EMOTT,) the management of this business appeared to devolve, I think it extremely probable that the resolution, improper as it is, would have passed. The description was forcible which the gentleman from Massachusetts (Mr. BACON) gave from his own knowledge of the situation of a man brought up at the same school with himself, and for whom it was natural for him to feel as he does; and I honor the member for so feeling and acting, for, *mutatis mutandis*, I think it highly probable I should do so too. These men are enlisted by, no matter whom; to go, they do not know where; to do, they do not know what. After getting to sea, they are compelled to go to

JUNE, 1809.

Miranda's Expedition.

H. OF R.

Caraccas with the commanding officer, whether they will or not. Never before was such a tale invented. It will not bear the touch. The gentleman from New York (Mr. Fisk) says that the very insurance offices would not underwrite, because no place was named. And then, we are told that these people were carried to a newly discovered country—a land of promise. I should not wonder, sir, that the insurance officers would not underwrite a voyage to the island of Jacquemel, or that the vessels should never have arrived at their place of destination; for the latitude of that island, with geographers, is at least as uncertain as was the destination of Miranda.

All that I have heard on this subject, except from the gentleman from Massachusetts, or the gentleman from New York on my right, (Mr. EMOTT,) reminds me of speeches which it has been my misfortune to listen to, delivered to ignorant juries, in mitigation of damages. My friend from North Carolina (Mr. MACON) laments that he, too, has not a little law, because he believes that it very often serves to help out a bad argument. Sir, it is one of the indiscretions of which my friend from North Carolina is not destitute, to wish for a *little* learning, more especially a little learning of the law. I had thought that the history of Jonathan Wild the Great had left an awful memento to posterity that although "a little learning was a dangerous thing," a *little law learning* is almost equal to a hanging patent. No, sir: God forbid that the natural sense, sterling worth, and real knowledge of my friend from North Carolina, should be balderdashed by a *little*, county-court, law learning. It would be impossible for me to estimate him as I do if such were his lot—if he were fated to dress up a flimsy argument on any side of any question on which a man happens to have received a retaining fee. I do not know how it may be with other men, but I do most devoutly pray—not like Oliver Cromwell, to be delivered from Sir Harry Vane—but, that my country may be delivered from leading politicians in the persons of second rate lawyers. They have been tried in other countries, and it has been found that first-rate lawyers would not answer for politicians. If they will not, in the name of common sense, what are second, third, fourth, and fifth rates to make? I do not know, as I have said already, how it may be with other men, but, whenever I hear men of a certain description get up to speak in a public assembly, I am almost reminded of an observation made of a learned and witty man, who, when he rose to speak on a subject, said "Well now;" and was then supposed to be considering what he should say. And I, sir, never see a man of a certain description rising to speak on a great national question, but it appears to me that he is balancing for want of the *make-weight* of a fee.

Mr. FISK.—I rise, principally, sir, for the purpose of noticing a criticism made on a remark which fell from me in debate yesterday, relating to the attempt made by the petitioners while on the voyage from New York to South America to escape from the power of Miranda. I stated,

that while at the island—at Jacquemel—they made this attempt, but were frustrated in their endeavors and compelled to go on board; as this port had been mentioned by other members of the committee, and was referred to in the report then under consideration, little doubt would remain as to the place intended, or the object for which I noticed it; and I then observed the distinguished gentleman from Virginia noting down the remark, with a significant smile, apparently much pleased. I presumed he understood me to have said "the island of Jacquemel." And I did not feel disposed to lessen the gratification that gentleman might feel from his having so understood me. I was willing to afford that gentleman all the pleasure and all the honor he could desire, together with all the consideration he might acquire with this House, and with this nation, from having, by his superior knowledge, in his place in this House, discovered and corrected an imaginary or real geographical mistake, of such immense moment and infinite concern to the people ("God bless them!") of this country.

If in the course of debate any member in mentioning a place incidentally connected with the question, to be decided and noticed by others, referred to in the report before the committee, should call a part of the island of St. Domingo the *Island*, I should think the blunder was made inadvertently or ignorantly. If inadvertently, that it was unworthy of the notice of any critic, however profound. If ignorantly, that it was beneath the animadversion of any honorable member of this honorable august body; unless I may be permitted to except the exception, the distinguished member from Virginia on my right, (Mr. RANDOLPH.) But whether Jacquemel is an island, a port, or a continent, was as immaterial to the inquiry then before the committee, as this criticism is foreign to the merits of the question now under consideration, or the remarks about the "building or rebuilding of the north wing of the Capitol, together with our chairs, tables, and bulkhead windows," were from a question touching the sale of the gunboats, or the reduction of the Army.

Mr. KNICKERBACKER said as he intended to vote for the proposition, he deemed it proper to assign his reasons for so doing. A principal reason was that these men had engaged in Miranda's expedition, not knowing it to be of a hostile character; and this fact, he said, sufficiently appeared from the testimony which had been quoted from the trial of Ogden and Smith. The fitting out of the armament, too, had been carried on in the most public manner, an officer of the Government being concerned in it. Miranda, the man from whom the whole emanated, was not known as being concerned to the unfortunate persons now suffering slavery in Carthagená. The man who had enlisted these men (Fink) had promptly answered when questioned, that he himself was not informed of the nature of it, though he had asked for information of the real object of the expedition. The tale which had

been told them appeared to be such a one as was calculated to seduce young men into the scheme. They had been told that it was an expedition under the authority of the Government, and had been engaged also under different pretences. In this point of view, not knowing that they were about to violate the laws of the United States when they embarked, Mr. K. said they could not be considered as highly criminal.

But gentlemen have said that these men ought never to have embarked in a concern of this nature without knowing its extent. Mr. K. said it was not common for young men to inquire minutely into the nature of anything from which they expected to receive a benefit. It always would be found when men were enlisted in the service of the United States, and the time of marching came, that they would be unwilling to go, and a reluctance to the service was on such occasions displayed, which had not been felt before the time of separation. Their reluctance to go on this expedition, therefore, when it was about to proceed, did not, Mr. K. said, argue that they possessed a knowledge of the design of it. It appeared to him rather that those men had been mistaken in the nature of the expedition, which, from its being conducted in so public a manner, they could not suppose to be hostile to the laws of the United States. Mr. K. said it was not his business here to approve or disapprove of whatever concern the Government might have been supposed to have in it. He should not, therefore, examine it; he hoped that the Government had no concern in it; but the open manner in which it was conducted might be a ground why those young men had no reason to believe that it was not an expedition authorized by the Government of the country. It had been stated to them, indeed, probably with a view to deceive them, that the Government was concerned. Miranda himself had not been seen by them. The first knowledge they had of him was some time after they had got to sea, when Miranda appeared under the assumed name of Martin. They were carried to Jacquemel, and, whilst there, exercised and trained in a military manner. Some of them discovered a wish to leave the vessel; they had began to suspect that some improper design was on foot. They attempted to make their escape; but the only result of their effort was closer confinement. I say that these men have erred, but the question is, *quo animo*? Did they knowingly and willingly err? It appeared not. Mr. K. quoted the evidence given on the trial of Messrs. Smith and Ogden to show that the men who enlisted had no knowledge of where the expedition was bound to; because even the person who employed them knew it not; and also to show that these men might well suppose that the Government was concerned in it, having been told so by Colonel Smith. Mr. K. said he wished not to be understood himself as implicating the Government of the United States; he hoped they were innocent.

The honorable gentleman from South Carolina (Mr. TAYLOR) had said that the House

should not show partiality to these men; that they were not worthy of the attention of Government; that they ought to have their claims rejected, because, if there were no other motive, it might set a precedent which might be dangerous in future; and that, if the House did interpose, it would wound the feelings of the Spaniards, and prefer the relief of those men to that of our impressed seamen in British vessels. Mr. K. said he lamented that our seamen were in distress and mercilessly dealt by; but because they are suffering, is that any reason why the House should not interpose in behalf of those who now petitioned them? It was no reason because others suffered, that a deaf ear should be turned to the prayer of any sufferers, or that those should not be relieved who were now immediately the subjects of consideration.

Mr. K. said he did not know but he had already trespassed sufficiently on the time of the House; but he was not in the habit of apologizing for such trespasses. He said he had assigned the reasons which he had thought it his duty to do as a representative of the district whence he came. He thought this an important question. Let us not, said he, treat the committee on this petition with that neglect which some gentlemen wish to do. They have reported a resolution; they state that under the persuasion that the facts stated by the petitioners are substantially true, they are in favor of assisting the men. And, sir, under a full view of all the circumstances, I am induced to say that these men merit the interposition of the House, and have already endured sufficiently for the crime which they committed; and I trust they will find that mercy which we, in similar cases, would hope to be shown to us.

Mr. HOLLAND said if this case were to be judged by the expressions of gentlemen in the House, it might be supposed that the offence of these men was one of the most aggravated crimes that could have been committed; that there was no crime of so high a nature, no offence of so deep a die. But what was their crime, and of what were they guilty? What was their destination? To know the crime it was necessary to know the object of it—and what was it? It was nothing more or less than going to some of the provinces of Spain in South America, in order to revolutionize them. This then was the object and this the crime—a design to revolutionize the provinces. Has the revolutionary spirit always been considered a crime of the deepest malignity? Certainly it has not. To those who believe that monarchy and despotism are favorable to human happiness it might appear a crime; to others, it seems to me, that it should not. We have heard of persons coming from Europe, long before we were independent or had so declared ourselves, for the express purpose of engaging in an act of this kind, to revolutionize the country and better the situation of these then provinces. At that period I well remember it was not considered a crime of deep die. Pulaski, Kosciuszko, and I believe Lafayette and others came forward.

JUNE, 1809.

Miranda's Expedition.

H. OF R.

It was true that we had commenced the work, but they of their own free will and without the order of their Government, came and joined us here.

At the time Miranda's expedition was set on foot we were not very amicable with Spain, and this might influence persons taking a superficial view of the subject to suppose that it was no such great crime. If they had succeeded in their attempt, and liberated the provinces (and I hope they soon will become free provinces) they would have been considered the benefactors of mankind; they would have received the thanks of all the friends of humanity; but, poor fellows! they were defeated. In going with a design to revolutionize the Caraccas, they might have gone with patriotic motives. As to the crime itself, it is not of that deep die which ought to damn them for ever. It is not a moral crime, but may be considered a political crime. The United States being at peace with Spain, perhaps it was impolitic and improper for them to go forward on such an expedition. We have been told that all the officers concerned have been executed, and that the persons remaining are only common soldiers. Supposing that these persons went with their eyes open on the expedition, the question would be, have they not suffered enough? Has not the cup of vengeance been drained to the bottom? They have suffered enough, sir, and if by an act of mine I could relieve them, I would. This is the view of the subject which I take, supposing them to be as criminal as gentlemen say. But, if they be not guilty, they certainly have a much stronger claim, not to the mercy, but to the justice of the House. If they did not know that they were to be carried to the Spanish provinces, they are innocent. To my mind nothing is more easy to conceive than that it was politic for the officers to keep them in ignorance, and I must view them as innocent men. Nor shall any apprehension of committing the late or present Administration prevent me from doing that which I believe to be right. Whether the Administration connived at the expedition, is not now the question. It is impossible to consult my own feelings, and not to say that these persons ought to be released. One innocent person in captivity would induce me to vote \$3,500 for his release. What is that paltry sum in comparison with the relief of an innocent man? Nothing. How much less then ought we to hesitate when upwards of thirty persons are involved?

But it is said that the request for the relief of these men will be an indignity to the Spanish Government. I cannot conceive it. It proceeds on the ground that they were innocent in the outset; and under these circumstances we apply for their release. Will the ruling authority, be it what it may, be dissatisfied with this application? They are not detained there from political views—no such thing. The whole were tried as pirates, and condemned. No particular act was proved against them; they were viewed as pirates and as belonging to no nation; and of course remain under a sentence of confinement. But if they

were claimed as deluded citizens of any nation, would it be an indignity to Spain for that nation who claims them to ask for their release? The Government of Spain will see that we come forward in the cause of humanity, and will feel themselves honored by an opportunity of favoring it.

I agree with the gentleman from Virginia (Mr. RANDOLPH) in one respect. I, too, have been entertained with a variety of arguments which have no relation to the case. I have listened to gentlemen making long arguments without appearing to know what was before the House. I have heard it, and may myself be guilty of doing the same. My argument is this: that, even if guilty, their sufferings have expiated their offence; and that, if innocent, we are doubly bound to relieve them. What honorable gentlemen in the House will say that, amongst the whole thirty-six, there was not one who enlisted without knowing what was the object of the expedition? If we have a doubt of their knowledge, the doubt would amount to an acquittal, and would authorize our application for their release.

Sir, had I been a young man, and had nothing else to engage in, I should myself have been happy to join a number of brave fellows in emancipating an enslaved country—and the provinces of South America are in a miserable situation, and there is no danger of worsting them by any change. But, supposing this not to be correct, the suffering situation of these men calls upon the justice and humanity of the House for relief. It is true that, last year, I was not in favor of these men. From a suggestion that they were not American citizens, I voted against the proposition for their release; but I am here informed by gentlemen personally acquainted with some of them, that they were raised near their doors, and are well-meaning men. And, for fear of a paltry sum of money, of giving confirmation to ridiculous suspicions of our Government having connived at the expedition, or of offending any foreign Government, shall we withhold this relief? I hope not, sir.

Mr. LIVERMORE said he had no idea of bringing down upon the country the vengeance of the Spanish Government by the proposed application, or of attaching such importance to it. The simple case, said he, is this. We are informed that a number of our countrymen, children of the same family, are now suffering the most horrid punishment that the human frame is capable of enduring. I conceive it possible that, on this occasion, my feelings would carry me too far; as no judge could sit and pass sentence on his own son. I profess to be a man who has a feeling for his fellow-men, especially for his fellow-citizens, and not to have those qualms which would induce me to look very nicely into such a question as this, when a decision might relieve my fellow-citizens. The proposition is simply to request the President of the United States, if he be satisfied that these men were involuntarily drawn into the expedition, that he will apply the most efficient means in his power to effect their liberation. I merely wish to send an agent to attempt

to procure the release of these men. There is a fact which ought to have weight on the decision of this question, viz: that, after these men were condemned to this imprisonment, a British vessel arriving near there, hearing that some were British subjects, made application for their release, and those that were such were liberated. And the American citizens would be liberated if applied for. I do not much imagine that they would import a despotic Government here, or that their sufferings would excite other people to revenge their cause. I do not imagine that any further benefit can arise from the further confinement of these poor fellows. They have been there three years; and must, even if we agree to liberate them, remain a considerable time longer. A part of them will have to remain five years longer, unless relieved, and some perhaps longer still. It is too much, sir, to be so punctilious on this question, to descant so much on taking this money from the pockets of our constituents. I can easily conceive that money must go from the Government, because the application is to be made by the Government. I should have thought, this being the cause of humanity, that nothing real and substantial could have been objected to it; nothing which could have drawn out the discussion for an hour.

Mr. RHEA next spoke at length on this subject. It had been said that these men were induced to go from the expectation of acquiring great wealth. It had been also said that they had been employed under the pretence that they were to guard the mail to New Orleans. Was it in that employment that they expected to acquire such great wealth? The inconsistency of these stories, Mr. R. said, was too palpable. Gentlemen had said they believed them innocent. But a tribunal of competent authority had found them guilty of one of the greatest of crimes, piracy, and as pirates they had been taken and condemned. This House was not the tribunal to judge of the propriety of their punishment.

The gentleman, (Mr. HOLLAND,) who made a talk behind me, said Mr. R., has used a curious argument. He says that these men were employed in a design to revolutionize South America. But, says the gentleman, it is no crime to revolutionize the Government of the Spanish provinces, because it is despotic. This is the most extraordinary argument I ever heard; and it is strange that no gentleman has before discovered it. This must have been the grand discovery which induced the gentleman himself to change his mind. According to his doctrine, it is a glorious thing to revolutionize any Government. Sir, what have the people of this Government to do with the despotic Government of South America, or with any other Government? Upon cool deliberation, the gentleman must renounce the idea, as unworthy to be held out by any gentleman on this floor. I grant that the question is, have these persons committed any wrong? The gentleman says that they have violated no moral right; that it is *merely* a political sin. Mr. R. here compared the idea of a distinction between a moral and a

political sin. Away with all appeals to the passions in this case, said he, for they only obscure the true view of the subject. If these men had been taken fighting for their own country, or on board armed or unarmed vessels of the United States, or taken by force from their own country, the President would have claimed them, as it would have been his duty to have done. But that not being the case, the United States had no right to interfere with them.

When gentlemen talked about sensibility, humanity, and all these things, let them recollect that the people of the United States are interested in this subject. What would have been the event if these people had prospered in their undertaking, if Great Britain, in whose cause they were employed, had been able to have induced them to make war upon the United States in consequence of this attempt to invade the dominions of a Power in peace with the United States? Would not this have involved this nation in war? Let our sensibility be excited, said Mr. R., when we contemplate that these nefarious designs were thwarted. Let us rejoice, and not undo what we have done by giving a vote to relieve these men, who actually chose to be no longer citizens of the United States, not showing their disposition in words but in deeds. I am unwilling now to admit their claim to citizenship. It is the principle, not the money, which I regard.

Mr. Cook said he differed on every point with the gentleman last up. The idea that the application would involve the country in war was altogether erroneous; for, in fact, it was a private expedition which, at any time, would have been, and indeed had been, wholly disavowed by the Government of the United States. If guilty of intention to commit the crime, these men would have been punished as the ringleaders were. There being no proof of their guilt, they were imprisoned, because it would not do to release them after their being landed there as a hostile force. In this state of things, Mr. C. said we certainly should interpose.

Mr. PEARSON.—This discussion, I hope, is drawing to a close, but I cannot consent to dismiss it, without submitting a few observations, which I conceive due to myself, due to my friends, and not inconsistent with the obligations I am under to this assembly. When I took my seat in this House, I thought it a fortunate, a propitious moment—a new political era had arrived—a time had come which, if met with proper dispositions, and well improved, ancient feuds might be done away, and that harmony, that good will, and that unanimity, once more restored, which is so essential to the welfare and prosperity of this Republic, and which, for some time past, had nearly been driven from this land. With such sentiments and dispositions, to which I still hope to adhere, was my regret to hear a venerable gentleman from Pennsylvania, (Mr. SMILIE,) not only make an unfavorable interpretation of my language, but also do injustice to my motives. I had hoped, and do still indulge the belief, that a majority of this House were perfectly satisfied with

JUNE, 1809.

Miranda's Expedition.

H. OF R.

my language and motives, but I felt no reluctance, on the contrary, I was cheerful in making such an explanation as I did deem fair to myself, and satisfactory to every member of this House. Then, sir, what was my surprise, what my sensibility and astonishment, to find certain gentlemen, and particularly a gentleman from Virginia, (Mr. JACKSON,) who I do not now see in his seat, but who, I hope and believe, is in my hearing; if he is not, I will be ready to repeat every syllable I utter; what, I say, was my disappointment, to find that gentleman not satisfied even with my explanation; not disposed to interpret my expressions liberally and ingenuously; but agitated, quickened, and roused, as if some *demon*, some evil spirit had rushed through these walls, and threatened us with destruction. This gentleman immediately moved the Committee to rise, alleging that information had been given by a gentleman from North Carolina, which demanded consideration, as implicating the conduct of some of the late officers of Government, and which might be proper to be disclosed by calling the gentleman from North Carolina to the bar of this House as a witness, and for this object he expressed a wish that time would be given for consideration until to-morrow. Although I did not conceive the language and proposition of the gentleman as *directly insulting*, yet, from the time and manner of those remarks, together with the circumstance of my having been only a few days a member of this House, I could not forbear to apprehend that more was intended than expressed; and, taking all the circumstances together, were well calculated to produce unpleasant sensations, if not a wound to my feelings.

I had imagined that gentlemen of ordinary understanding would have seen that the circumstances stated by me, respecting the conduct of some of the officers of the late Administration, were not given as facts within my own knowledge, to which I might be called to depose, and that the conclusion I drew of their probable knowledge of Miranda's views, was not an assertion of their participation in his plans, but an inference deducible from facts and circumstances before the public. If the discriminating powers of the gentleman from Virginia (Mr. JACKSON) did not admit his comprehending this distinction, it is his misfortune, not my fault. Permit me now to say, to my country I shall always obey a call of duty; where its interests require, I hope to be found. And the gentleman, whom I perceive is now before me, may know that, not only the call of my country shall be obeyed, but also any *private* call which it may be honorable to meet.

Mr. J. G. JACKSON said he had indeed observed that he conceived it proper that the groundless and slanderous charge should be made openly, and not covertly avowed; but, when he had recollected a moment, he had conceived it not worthy of notice. And I cannot conceive (said Mr. JACKSON) how gentlemen, when they say that they feel themselves offended, should lay themselves open again. I hold myself responsible anywhere for anything which I have said.

Mr. RANDOLPH said that there were two important points which he had intended to have touched upon when up before, but which had nevertheless escaped his recollection. He had no sooner returned to his seat than they had occurred to him. The first was a Constitutional question—how far it was competent to the House to direct the Executive as to the object of any particular negotiation? Or, in other words, how this House can direct the Executive to open a negotiation on any one subject whatever? We have heard in this House, said Mr. R., objections, the most fastidious, to an expression of our opinion as to the conduct of the Executive on that which has already taken place. How much more strongly will these objections apply to the power of this House to direct the attention of the Executive to that which has not taken place? I wish it to be understood that I consider the House as the great Constitutional adviser of the Executive, and that I feel no conscientious scruples on this head. On the contrary, if I thought proper, I would at once move that the Executive be requested to open a negotiation, and pledge the House to make good the expenses; but I know that there are members in this House who hold this to be one of the most detestable heresies; who conceive that the Executive is wholly independent of us, and that, although he may recommend measure to us, we have no right to interfere with him in the most remote degree. I wish, therefore, to impress on the minds of gentlemen who have heretofore felt these scruples, the magnitude of the Constitutional question involved in the report of the committee as to our right to pass the resolution. And there is a sort of subsidiary point involved which it may be as well to take into consideration; and that is, whether the matters in dispute between us and France are so few, and of a nature so trivial, that the adjustment of those matters may be safely burdened with, not a *demand*, but an *asking*, on our part, of a very great matter of special favor of that Government? For I perceive that we cannot send this agent without acknowledging the independence of the colonies of South America, and then involving ourselves in a war with France, or addressing ourselves, in the first instance, to the Government of France. And I wish to ask of the House whether our situation is perfectly smooth, whether we tread on velvet with that nation? And whether this matter should be thrown into the scale of difference?

There is another point on which I meant to be explicit and full. It has been assumed as a principle that, provided the Government of the United States (understanding by this expression the Executive Government) did sanction the expedition of Miranda, this House is bound in duty or honor to interpose in behalf of these people. That is a position which I do most preempторily deny. If the Executive Government of the United States (I argue only hypothetically) did countenance the expedition, it acted contrary to law and to its duty; and there is no obligation, on the part of this House, to support the Executive Govern-

H. OF R.

Miranda's Expedition.

JUNE, 1809.

ment, whenever it departs from the obligations of law. For what is that but to say that, if the Executive Government choose to make war against any nation, we are immediately bound to vote lives and fortunes to carry it on; that, in fact, there is nothing which the Executive, without our knowledge or consent may sanction, that this House may not be called upon to confirm. This is a doctrine to which I can never subscribe.

As I am up, sir, permit me to discharge a very small part of the obligation which I owe to the gentleman on my left, (Mr. FISK,) at the same time premising that I see, with concern, the spirit which has manifested itself on the right of the House. Without imputation or blame on any gentleman in the House, I am sorry that it should have been manifested. Surely, I am under no small obligation to the gentleman on my left, (Mr. FISK,) and I beg leave to discharge a small part of it. The bare recital of the marks of attention which I have received from that gentleman, I am afraid would call a blush into his cheek. I owe it him as a member of the minority, for having, when he first set foot on this floor, deigned to answer (in what manner it does not become me to say) speeches which I made years ago—it is a debt of gratitude I owe him for having come into this House to do that which, I presume, the talents of this House were, in the gentleman's opinion at least, incompetent to execute. Does the gentleman expect, sir, that I mean to quibble with him about a phrase? Shall I object to the poor come-off which the gentleman claims for having said, "when these people were at Jacquemel"—a species of phraseology which I venture to say was never heard before this day. Should we say "at the Island?" Speaking of Blannerhasset's Island, or any little spot like it, we might use that language; but, "at the island of Jacquemel," is a species of phraseology which I never heard of before this day.

Again, sir—After having so pointedly pitted himself as the leader of the majority of this House (and I congratulate it on the accession of talent it has received against a single individual who certainly has no ambition of breaking a lance with a gentleman of such superior prowess) did I owe him nothing for the especial notice and countenance which he chose to bestow upon me? I might have attempted to repay it in an awkward way—I did attempt to set the gentleman right in his—I will not call it French, for it would have disgraced any black letter Norman—and to correct him in geography caps my error. Let me entreat hereafter that the gentleman will select an adversary more worthy of his powers, one from whose defeat and chastisement he might derive more honor; he might find such a one even in his own delegation—the gauntlet has been fairly thrown, but I have not perceived that it has been accepted. Poor minority men! their fate indeed is hard; they are not only compelled to bear the weight of their own errors (for who is exempt from error?) and all the errors of their opponents and of those who administer the Government, and the frailties of gentlemen of a dif-

ferent political description who sometimes act with them, and their own too, the misfortunes of their country and the defeats in Europe, and all the disasters in this our country and in the whole world—but they are selected as the objects of the especial enmity of the gentleman from New York (Mr. FISK.) That it is the calamity which fills up the measure of their woes; that it is for which nothing can possibly make amends. *Nos poma natamus*—what a dust we make! What a dust the gentleman has kicked up—and how we apples do swim! Did the minority elect Mr. Jefferson? I can tell the gentleman—yes, sir, they did; it was a minority when the measures were taken to produce the election; and the characters who had a hand in it have many of them composed a minority since. I have no claims in that way—but I will at least ask the gentleman from New York to bare his bosom and show his political scars; to tell the victories he might have won, the battles he might have conquered—and I will show at least as high a claim as that gentleman. In both elections of Mr. Jefferson the minority had their weight, although at the last election that weight could not be felt.

I hope, sir, that the gentleman from New York and myself have now settled our accounts; if not it remains for him to keep it open to the end of the chapter, on his part. Like my friend from North Carolina, I too have a sort of alacrity in getting into a minority, as great as ever honest Jack Falstaff had in sinking—and, to tell the truth, I am so wrong-headed as to take a pride in it, that I never have been and hope in God I never shall be found to join a set of men, in their triumph, of whose adversity I was afraid to partake. If I desert the camp, it shall not be when we are at short allowance and overmatched by a victorious enemy; it shall not be for motives of gain, to partake of the profit of the strongest side, and then to be the first trumpeter on that side. In short, sir, to come at the point more directly, the most rancorous men now in public life as politicians of the majority, are the men who were of the other party when Mr. Jefferson was first elected, whose election has been lugged into debate, I know not why or wherefore. And sorry am I to say, that the stronger party, defalcated and purged of its dross and lees—for straws show how the wind blows; certain materials always go with the current—I am sorry to say that that party sometimes gives us cause to blush, I do not say on what account. Adversity is a fine thing; it toughens men; and in 1798-9, there were as many honest men in the Republican party, although it was a minority, as there are now.

But, enough of all this. I hope, sir, that the proneness to get into a minority, of which my friend (Mr. MACON) complains, will not deter him from the course which he has so long and so honorably pursued—I mean the keeping his eyes singly fixed on the public good. Rely upon it, Mr. Speaker, the people of this country have begun to open their eyes. Great as their influence is, newspapers have lost much of their weight. The people begin to judge of propositions, not so

JUNE, 1809.

Miranda's Expedition.

H. OF R.

much from the popularity of the man from whom they come as from their intrinsic value; that it is not their interest to be played off by one faction against another faction, when, in fact, let whatsoever faction will be in power, it is the people who must always rule. It is they from whom the wealth and emolument and office is drawn. They begin to see through this trick—

The SPEAKER observed that he must confess he could not see how the gentleman from Virginia could apply his observations.

Mr. RANDOLPH sat down.

Mr. FISK proceeded to speak—

Mr. RANDOLPH wished to know if his sitting down to give an opportunity to the Speaker to make his decision on the point of order had precluded him from proceeding?

The SPEAKER said he had decided that it was improper to speak of factions in this country. He hoped the gentleman's good sense would enable him to distinguish between what was consistent with order and what was not.

Mr. RANDOLPH said the Speaker had thrown him into a great dilemma. He had a problem to work, which might puzzle Euclid himself; that was, in replying to the remarks of other gentlemen, to ascertain how far his remarks in this House were in order.

The SPEAKER said that the gentleman would observe that he had not been called to order when replying to what other gentlemen had said; for he was speaking of *factions*, a subject not before introduced into debate.

Mr. RANDOLPH said he had heard of nothing but factions for two or three days past. He was sorry so much had been said; and it was because factions had been brought almost in hostile array against each other, that he had found it unnecessary to say anything. A gentleman the other day, to be sure, gloried in being a party man. This, said Mr. R., may have led to this sort of discussion; it certainly was not begun by me, and nothing could have induced me to partake in it but the extraordinary manner in which it was introduced. I wish to discuss this question on its merits; and should have been happy heretofore to have witnessed the interference of the Chair. I do not see how it is possible to get along, unless we stick to the question itself, in which case there is no occasion for any reply at all. Now it is necessary sometimes to rebut that which gentlemen advance as having great weight on the minds of others. I hope this is not a party question. Certainly, if it is, I shall vote in such a way as to promote the interests of my country; that is my object, but it incidentally happens that I shall at the same time sustain the reputation (as far as it is involved in Miranda's affair) of the late administration of our Government. In short, sir, I feel myself so circumstanced as to thinking whether what I am about to advance will, in the Speaker's opinion, fall under the imputation of disorder, and am trying to make a distinction between it and what has been advanced by other gentlemen. I recollect a case in Philadelphia, in which the present Chief Jus-

tice of the United States was one party, and a gentleman from Virginia another. The Chief Justice made a speech, which the gentleman from Virginia attempted, very unsatisfactorily to the House, to answer. The gentleman from Virginia was pronounced out of order. He took his seat, and then this question arose: If it was out of order in my colleague to discuss it, was it not *a fortiori*, or rather, *a priori* was it not out of order for the Chief Justice to introduce them? And the gentleman had permission to proceed. The House has had too much of what a (not very accurate) gentleman called *muclilaginous* matter; and, with a former member of this House, I shall be glad to see matters restored to a *state of statu quo*; that we should set out again, as we began yesterday; that this question might be considered and decided on its intrinsic merits; that hardness of heart and all uncharitableness should not be imputed to my worthy friend before me; that we should take up this thing and settle it on these points: 1st. Supposing these men to be innocent, and to bring proofs of it, does not the fact of their having petitioned serve in some degree to mitigate the representations we have heard of the severity of their situation? After discussing the proposition on the supposition that they are innocent, let us argue it on the supposition that they are guilty, which unquestionably must be assumed as a fact until the contrary is demonstrated. These men are the agents, the accomplices of the guilty. To be sure, they may tell us, like the geese in the fable, that they are not swans; but what does that avail, when they have been found trespassing on the cornfields of the farmer? Their being involved in the scheme by swans who could fly away and escape punishment, does not alter the question of their accountability. Then, sir, there is the Constitutional question on which I have no scruple myself; then there is the expediency of the thing, and the example which it holds forth to society. If we discuss it upon those grounds; if I could be brought to believe that these men are innocent, or that, if guilty, which I believe them to be, no public detriment of a serious nature would result from our interference, even I would vote for the resolution, for my feelings are with their sufferings, I wish them released, but I would annex a condition, viz: that they should never return to the United States. I would be glad that they were released; I have no sentiment of hatred or uncharitableness towards them. And whatever may be said or thought of my friend from North Carolina, (Mr. MAÇON,) I believe he would go as far to relieve human misery in any shape as any member of this House. In relation to the resolution, if the President is not inclined, I presume that neither the passage of the resolution, or of a bill in pursuance of it, would *compel* him to apply for the liberation of these persons.

Mr. MAÇON said he should not again have risen had not his name been brought into debate. What he had said yesterday, he would repeat to-day, notwithstanding the congratulations of the gen-

H. OF R.

Miranda's Expedition.

JUNE, 1809.

tleman from Pennsylvania, (Mr. Ross.) I said Mr. M., in this House, never said a word to injure any man's feelings; this is not the place to do it. I repeat that I have no more charity or feeling for men who undertake to do acts by which the nation shall be placed in a state of war, than for the wretch who would murder his mother. I dare say always what I think on this question and any other; and I will say it. I said yesterday, and I say it again to-day, that I was opposed to giving any man under the sun, the power of pardon. The power of pardon is copying after a Government which has no analogy to ours; and the opinion which I have expressed against it, is not one which I have taken up in haste, but one which I have long entertained. I appeal to any man who has ever attended to the exercise of this power of pardon, if it be not abused nine hundred and ninety-nine times out of a thousand. The Government of our country ought to be more cautious of the exercise of this power than of any other. Let a free man of a free country be convicted of a crime for which he ought to lose his life, and he becomes an enemy to his country if he be pardoned. No one will receive the out-cast, and he is ready to follow any Catiline who appears. These opinions may be singular, but I know they are honest. If they do not follow a Catiline, what becomes of them? They get into your army or navy. I want them not there; they will always be industrious to make proselytes to their nefarious practices.

In the course of this discussion, much reliance has been placed on the man who was one of the party, and turned a sort of State's evidence. Of all witnesses in the world I would trust them the least. According to the old proverb, "honesty among rogues."

Sir, you may try to laugh at "Roman virtue," till you get it out of countenance; but it is that stern virtue on which every Republic depends. All Republics that ever did or will exist, must depend on that stern or Roman virtue. To take a thing half right or half wrong is not according to my creed. I was always rather foolhardy—neck or nothing; and the gentleman from Virginia (Mr. RANDOLPH) need not fear that I shall depart from it as long as I have common sense. I had rather be in the majority than in the minority, but I will never go there for the sake of being in one.

As to the money involved in this business, I do not bring it up as an objection. It is the advocates who bring it up. But my colleague (Mr. HOLLAND) has made a new discovery, not only that these men are innocent, but that they are deserving men, because they went crusading in the cause of liberty. Sir, let us take care of home first. When we can do more than support our own liberty, we may go a crusading. We are in a situation, the gentleman seems to think, to go into a general battle, to revolutionize South America; and, after that, to take British India, I suppose. It is something strange that we, who are opposed to the resolution, are called upon to prove them guilty. They went on an unlawful

expedition, and are taken in the fact. I have no charity for evil-doers. I have heard nothing said of their repentance, though a good deal of their sufferings.

Some how or other the election of Mr. Jefferson has got into debate. The people in the State which I represent, know what part I took in that. I never was mealy-mouthed in it; and gentlemen who were then here, to whom I am opposed in politics, but with whom I have no enmity, will say if I did not contribute my mite to produce it. But I know that a great many people who were thought very slack then are making a great deal of noise. I like toleration in politics as well as in religion; and I can say, and I believe truly, for the honor of the State in which I live, that office is not there the object of the people. No man was ever turned out of office there for his politics alone. From what I have seen of this Government, and I hope I shall be permitted to state it, let a party only come in by a squeeze, and they will soon have a monstrous majority. But, notwithstanding the late President and his Council were divided in opinion on some points, though many (not Federalists) were willing for him to go out, he held his popularity throughout.

Sir, I do not like these indirect wiles, by "congratulating" me on my feelings. Let gentlemen come boldly out.

Mr. Ross said he certainly should be the last man to cast any insinuations against the gentleman who had just sat down; and if he had not expressed himself in such a way as to be understood, he would observe that he meant no ridicule, no irony. He had stated that some gentlemen possessed sterner virtues than others, and were, therefore, more insensible to the feelings of humanity.

Mr. MAcon continued.—My affections are not scattered over the world; they are tied to the land which gave me birth. One time I have been called a Frenchman, another time an Englishman but I knew this mud would not stick to me. What do we want with these men here? Is any gentleman willing that they should associate even with their servants? No, sir; much less will they let them come among them. If they were but poor and honest, every man in America would admit them as freely as if they were the richest men. Their object was to put us in a state of war with Spain, I believe. They have gone into Spain, and there they may stay, for an example. I neither want any nation to interfere with us, nor to interfere with them. All I want is, hands off. What do you want with men with whom nobody will associate? Do you want an Ishmaelite in the midst of Israel? But some gentlemen's feelings are so tender that they cannot bear to know that these men are in prison. In some of these States, and Pennsylvania for one, they keep culprits imprisoned at hard labor, and call it a mild punishment. And I will take the opportunity of stating that I am not so friendly to penitentiaries since Virginia has had one, which has brought the experiment nearer to me. I believe that people will steal there when they would not

JUNE, 1809.

Miranda's Expedition.

H. OF R.

steal with us; for, although the power of pardon is exercised sometimes, we now and then hang a man. You may moralize until you demolish law. My system of democracy is that law, when made, shall not be broken. Make your Executive above law, and this will no longer be a Republican Government, but will assimilate to a monarchy, where a King is the key of all power. We have derived much good from the English constitution, and some evil. There the King is the source of the evil, and here I should like to see the President rather less powerful than more so. I should like to see him like some of our Governors. Look at the States in which the Governors have great patronage; they are always in a ferment. Look at the States where the Governor is almost a nominal officer; they are all peace and quietness. So little do we care about it in the State in which I live, that though we have a Federal majority, we have never had a Federal Governor. But the same indifference does not prevail in our Congressional elections. Some men may think it a disgrace to the State, but I do not—for I would be the last man ever to utter a sentiment against her. We are to get these men back; all our finer feelings are interested. We shall, perhaps, make schoolmasters of them, to teach our children the art and necessity of political crusades. I repeat, that I do not want one of them again in this nation. I judge them solely by their actions. Like the gentleman from Tennessee, (Mr. RHEA,) I do not want them to be called my fellow-citizens. Great Britain may take them and put them on board her navy, as she did her own from the same place. It is in vain to appeal to the finer feelings of the heart, and to humanity, when talking about these people. The House must and will judge the case according to its merits.

Mr. TAYLOR said he had asked for precedent in this case, and gentlemen had given him none. He held in his hand a precedent in point, which arose from the feelings which this nation and its Representatives very properly felt toward M. de Lafayette, who was pining away in a dungeon, in whose case there could not be a doubt as to his innocence or guilt, for he was taken in open war. Yet, when the subject had been brought before the Legislature of the nation, in the good old times of WASHINGTON, (and an example from that day derived sanction from the auspices under which it was made,) they refused to interfere. A motion was made, and seconded, that the House do come to the following resolution:

[Mr. T. here quoted from the Journals of Congress, a motion which was made, and negatived, to request the Executive to use its endeavors to obtain the release of M. de Lafayette, then in imprisonment.]

If the sympathies of this nation could not then be roused high enough toward this distinguished citizen, (for he had been adopted a citizen of the United States,) to interfere for his relief, Mr. T. asked whether the House ought to do it now for condemned felons?

Mr. McKIM remarked that this precedent could

not have force. Citizenship had been conferred on the Marquis de Lafayette, as a gift for his services, without his renouncing his allegiance to the French Republic, in whose service he then was.

Mr. FISK said that the difficulty which had been raised as to the proper authority through which the release of these men should be requested, did not furnish sufficient reason for negating the resolution. He did not consider this motion as infringing the powers of the Executive, or that a special mission would be necessary to carry it into effect. He believed that an expression of a wish for their release would procure it. I ask, said Mr. F., what would be the language of the people of this country, who feel a wish that the prisoners should be released, and of the prisoners themselves, when they find that their prayer was rejected on such scruples as these? They might pursue the dialogue of which the gentleman from South Carolina quoted a part, and say:

"Should I have answered Caius Cassius so?
When Marcus Brutus grows so covetous,
To lock such rascal counters from his friends,
Be ready, Gods, with all your thunderbolts,
Dash him to pieces."

They will think this a hard case that we should deny them this paltry sum. They might not think it a conclusive answer to this application, that there was some doubt as to the propriety of interfering, some doubt whether it might not offend the Spanish Government.

I rise merely to call the attention of the House to a fact in relation to a Mr. Powell. [Mr. F. stated the manner of his release from imprisonment.] I do not rise, said he, never have risen, nor ever will I rise in my place as a Representative of the people, to settle accounts with any gentleman or any member, because I never have knowingly (nor will I ever allow myself to do it) made use of language calculated to injure the feeling of any member on this floor, either individually or *en masse*. But, if any gentleman on this floor shall, alluding to me as a Representative or a lawyer, say that I balance till I receive a fee, or use an expression of similar import, that I shall consider as a personal allusion, and shall feel myself bound so to deem it. Personal remarks answer no good purposes, and are often productive of the most serious consequences. I regret that they are ever made within these walls. While newspapers are, as has been stated, growing into disrepute from their scurrility, it is a more lamentable fact that the deliberations of this body are going into disrepute; and it is these personalities, on this floor, that cause it; and they will, if persisted in, operate the dissolution of this Government; for, once let the people cherish a contempt for you, and they will soon begin to hate you. If the Government ever be destroyed, the work must be commenced in this House. I beg of gentlemen to suppress their personal allusions, as I will. If I err, it is unintentionally; I never rise but when my weak judgment dictates to me that I can say something pertinent to the subject. Having said thus much, and expressing my deter-

H. OF R.

Finances.

JUNE, 1809.

mination to vote for the resolution, I shall resume my seat.

The question was now taken, and the votes were as follow :

YEAS—Ezekiel Bacon, William Baylies, William W. Bibb, Daniel Blaisdell, James Breckenridge, John Brown, John Campbell, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, Orchard Cook, John Davenport, jun'r., John Dawson, William Ely, James Emott, Jonathan Fisk, Gideon Gardner, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, James Holland, Jonathan H. Hubbard, Richard Jackson, jun., Robert Jenkins, Herman Knickerbacker, Edward St. Loe Livermore, Robert Le Roy Livingston, Vincent Matthews, Archibald McBride, Alexander McKim, Pleasant M. Miller, William Milnor, John Montgomery, Jonathan O. Mosely, Gurdon S. Mumford, John Nicholson, Joseph Pearson, Timothy Pitkin, jun., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Ross, Ebenezer Sage, Benjamin Say, Daniel Sheffey, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thompson, Uri Tracy, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., Wm. Anderson, David Bard, Burwell Bassett, Adam Boyd, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Howell Cobb, James Cochran, William Crawford, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Thomas Gholson, jun., Peterson Goodwyn, William Helms, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, Walter Jones, Thos. Kenan, William Kennedy, Aaron Lyle, Nathaniel Macon, Robert Marion, Samuel McKee, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Roger Nelson, Thomas Newton, John Porter, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Thos. Sammons, Lemuel Sawyer, Ebenezer Seaver, Samuel Shaw, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Jacob Swoope, John Taylor, Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.

The votes being affirmative 62, negative 61, the SPEAKER voted in the negative—the votes then being equal, the question was lost.

THURSDAY, June 15.

Mr. LOVE presented a petition of John Brent, late Collector of the Customs at Nanjemoy, and John Randall, now Collector of the Customs at Annapolis, State of Maryland, stating, that, in the year one thousand eight hundred and six, they seized and took possession of two vessels, one in each of their said ports, for a violation of the acts of Congress suspending commercial intercourse with the Island of Saint Domingo, which said vessels were libelled, and condemned as forfeited, and judgments obtained in the district and circuit courts for the district of Maryland, which judgments were reversed, upon the appeal of the adverse parties, by the Supreme Court of the United States, on the ground of the

said acts being no longer in force, and praying that the necessary inquiry may be made in the premises, and such relief afforded them as may seem just and proper.

Mr. SOUTHARD presented a memorial of the manufacturers of hats in the counties of Essex, Middlesex, and Somerset, in the State of New Jersey, to the same effect with a memorial of the manufacturers of hats in Fredericktown, State of Maryland, presented the twenty-fifth ultimo.

Mr. RICHARD JACKSON presented a memorial to the like effect, from the Providence Hat Manufacturing Company.

Mr. BACON presented a petition of sundry woolen manufacturers in Berkshire county, State of Massachusetts, praying that such measures may be adopted by Congress, as will afford protection and encouragement to the manufactories in which they have engaged.

The said petitions and memorials were read, and severally referred to the Committee of Commerce and Manufactures.

FINANCES.

The House again resolved itself into a Committee of the Whole on the bill making further provision for the support of public credit and the redemption of the public debt.

Mr. QUINCY moved to strike out the whole of the bill except the enacting clause.

On this motion a debate occupied the House till near seven o'clock, in which Messrs. QUINCY, RANDOLPH, DANA, MACON, GOLDSBOROUGH, LYON, and TALLMADGE, supported the motion, and Messrs. EPPES, MONTGOMERY, W. ALSTON, ROSS, J. G. JACKSON, and HOLLAND, opposed it.

The question being taken on Mr. QUINCY's motion, was negative, 66 to 47.

Mr. DANA moved to amend the bill, by inserting in the bill in substance as follows :

"Provided that no loan shall be made under this act, unless the revenue, after reserving \$600,000 for the payment of the civil list, shall fall short of eight millions of dollars annually, as already by law pledged to the Commissioners of the Sinking Fund."

After some observations from Messrs. RANDOLPH and DANA, a motion was made for the Committee to rise, and carried.

On the question whether the committee have leave to sit again, it was suggested by some gentlemen that it would answer no good purpose, as there was no question now pending but the motion by Mr. DANA, which could be renewed in the House, if the committee were discharged.

Before the question was decided, a motion was made to adjourn and carried.

FRIDAY, June 16.

Mr. LEWIS presented a petition of sundry inhabitants of Washington county, in the District of Columbia, and of Prince George's county, in the State of Maryland, praying that an act may pass declaring a road leading from the lower Eastern Branch bridge, in the District of Columbia, to the line of the said District, a public high-

JUNE, 1809.

Hannah Foster.

H. OF R.

way, on such terms as Congress may think proper.—Referred to the Committee for the District of Columbia.

On motion of Mr. MACON,

Ordered, That the committee to whom was referred, on the twelfth instant, the report of the Attorney General of the United States on the petition of Edward Livingston and the petitions of sundry inhabitants of the city and Territory of Orleans, in relation to the conflicting claims to the batture adjoining to the city of Orleans, be discharged from the farther consideration of the said report.

Mr. MACON said, that he was directed by the committee to whom was referred the report of the Attorney General on the subject of the batture, to ask to be discharged from the further consideration of it. The committee were of opinion, before they proceeded to the examination of this report and documents, that they should have another report on the subject, viz: an examination of the Attorney General of the claim of the United States to the batture; and if the committee should be discharged he was directed to make a motion to that effect. If the House was to adjourn before the first of July, it would be impossible for it to go through with the examination of the documents. The committee had heard the petitioner in defence of his claim, and in reply to the delegate from the Territory, (Mr. POYDRAS,) who had informed the committee that there were many more documents to examine before they made their report, some of which were not translated from the French language. One of the documents he had understood contained three hundred pages, of which but a part was translated. The examination of these documents it would be perceived would occupy much time; and it was supposed by the committee that the opinion of the Attorney General on the title of the United States was necessary.

The Committee were accordingly discharged, 52 to 63; and Mr. M. offered the following resolution, which, at the request of the petitioner, he wished to lie on the table, for one day:

Resolved, That so much of the Message of the President of the United States of the 27th of March, 1808, as relates to the batture in the suburbs of St. Mary's, adjoining New Orleans, and the documents which accompanied it, together with the petition of the citizens of New Orleans on the same subject, and the documents which accompanied the same, be referred to the Attorney General of the United States, and he be instructed to receive and collect such other testimony as may be necessary to ascertain the title of the United States to the before mentioned batture, and that he be directed to report to this House, at the next session of Congress, his opinion as to the validity of the claim of the United States to the said batture.

HANNAH FOSTER.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of Hannah Foster, made the following report:

That the petitioner states that her husband, William Crator Foster, in the year 1776, enlisted as a pri-

vate soldier in the second New Jersey regiment, commanded by Colonel William Maxwell; that he marched with his company to Quebec; that, in his retreat from Quebec, he was taken sick at Crown Point with the smallpox, and died. She, therefore, claims the pay of her husband while in the service of the United States. It is proven by an affidavit accompanying the petition that the said W. C. Foster entered the service of the United States, and that he died at Crown Point, while a common soldier. Your committee must state that, upon a consideration of the merits of this case, they cannot report favorably to the prayer of the petitioner; that the troops who marched into Canada were generally enlisted for one year, and had no promise of land from the Government of the United States, and that the wages for officers and soldiers were deposited in the hands of regimental paymasters, and by them paid into the hands of the captains for their companies at short intervals. It does not appear, by any evidence in this case, that the husband of the petitioner did not receive, as was usual, his wages while in actual service. Your committee, waiving the consideration of the statute of limitation upon the merits of this case, would not only require proof of the services of W. C. Foster, but at least strong presumptive testimony that the wages had never been paid, and the reasons which operated to make this case an exception to the general rule, which has not been done.

Your committee have already reported that this claim, if it still remained unpaid, was barred by the statute of limitation, and in that report the committee would be best supported by a review of the regulations which have heretofore governed the Congress of the former and present Government. As early as February 20, 1782, by a resolve of the old Congress, commissioners were appointed in each State with ample powers to liquidate the claims against the United States arising from the struggle for independence. And as early as February 27, 1782, commissioners were appointed to settle the army accounts in the five great departments, viz: the quartermaster's department, the commissary's department, the clothier's department, the hospital department, and the marine department, with full power and authority to liquidate and finally settle the accounts of these departments, respectively. Having thus made liberal provision to adjust the claims against the United States, by carrying a competent tribunal to each man's door, the Congress under the confederation, from various and good considerations, to guard against fraud, imposition, and speculation, resolved, in November 2, 1785, that claims for personal services in the military department should be barred, if not exhibited for liquidation before the commissioners of army accounts, on or before the 1st day of August ensuing the said resolve, viz: August 1786; that governed by the same and still stronger considerations as time elapsed, in July 23, 1787, all other claims against the United States were barred in the following words:

Resolved, That all persons having unliquidated claims against the United States, pertaining to the late commissary's, quartermaster's, hospital, clothier's, or marine department, shall deliver particular abstracts of such claims to the proper commissioner appointed to settle the accounts of those departments, within eight months from the date hereof, (July 23, 1787;) and all persons having other unliquidated claims against the United States shall deliver a particular abstract thereof, to the Comptroller of the Treasury of the United States, within one year from the date thereof; and all accounts

not exhibited as aforesaid, shall be precluded from settlement or allowance.

That notwithstanding the many reasons which existed to adhere to the statute of limitation, the Congress of the United States, under the present Constitution, on the 27th of March, 1792, suspended the limitation law, as it respected the claims upon the United States for personal services. Your committee might pursue this subject with respect to other descriptions of claims, and the regulations upon them, but will forbear at present. Your committee would not be understood as saying that no particular cases of hardship do not exist which would call for relief, but they would state that if the statute of limitation ought not to exist as to any classes of claims, the law should be suspended for a limited time, and claims admitted upon the same principles, under the same regulations and instructions which governed the different commissions and the Treasury Department when the statute did not bar these classes of claims. That, in all cases where claims exist of the same kind, auditors should be appointed, or the Treasury, or some other department, under certain regulations, should be authorized to adjust those claims, as any individual claimant would then have the same opportunity of substantiating his claim: and that particular laws ought only to be made for exceptions to the class of claims which could be settled by a general provision.

This remark arises not only from the practice of all Governments founded upon intelligence and freedom, but from the impossibility of extending relief to all cases which require it through this committee, who can examine very few cases, in comparison to the number of the same kind before them, which inability to do equal justice to all makes the regulation more unjust than if those claims were forever barred, by which all the mischiefs to the Government at least, of which the claimants are members, would be prevented. These reflections have arisen from the decision of the House upon a recommitment of this petition and the former report to this committee. If, therefore, the statute of limitation is improper, as to claims for personal services in the Revolution, or for supplies, or any other class of claims, it should be suspended for a limited time, as giving the only proper relief. Therefore,

Resolved, That the prayer of the petitioner ought not to be granted.

The report was ordered to lie on the table.

FINANCES.

The question pending at the time of adjournment yesterday, that the committee have leave to sit again on the bill supplementary to the act for the support of public credit, &c., was carried, 52 to 36; and on motion of Mr. EPPES, the House resolved itself into a Committee of the Whole on the subject.

Mr. DANA's amendment, offered yesterday, for restricting the operation of the bill to the event of a deficiency in the sum of eight millions, pledged for the payment of the public debt, was negatived, after debate—ayes 32.

The Committee then rose, and reported the bill Mr. RANDOLPH, after quoting the law establishing the office of Secretary of the Treasury, to show that it authorized the motion he was about to make, moved,

"That during the discussion of the bill, entitled 'An act supplementary to an act for the support of public

credit, and the redemption of the whole of the public debt,' the Secretary of the Treasury be required to give information to the House touching the same, in person."

The House agreed to consider the motion, by yeas and nays—61 to 59, as follows:

YEAS—William Baylies, Burwell Bassett, William W. Bibb, Daniel Blaisdel, James Breckenridge, Wm. A. Burwell, John Campbell, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Howell Cobb, Samuel W. Dana, John Davenport, jr., John Dawson, William Ely, James Emott, Meshack Franklin, Thomas R. Gold, Richard Jackson, Walter Jones, Herman Knickerbacker, Edward St. Loe Livermore, Robert Le Roy Livingston, Nathaniel Macon, Robert Marion, Vincent Matthews, Samuel McKee, Jonathan O. Mosely, Gurdon S. Mumford, Thos. Newton, John Nicholson, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Roane, Thomas Sammons, Daniel Sheffey, John Smith, Samuel Smith, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Benjamin Tallmadge, John Thompson, George M. Troup, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Robert Weakley, Laban Wheaton, Ezekiel Whitman, and Robert Witherspoon.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, Adam Boyd, John Brown, Robert Brown, William Butler, Joseph Calhoun, James Cochran, Orchard Cook, James Cox, William Crawford, Henry Crist, Richard Cutts, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jun., Peterson Goodwyn, Daniel Heister, William Helms, James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Robert Jenkins, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Alexander McKim, Pleasant M. Miller, William Milnor, Nicholas R. Moore, Jeremiah Morrow, Wilson C. Nicholas, John Porter, John Rhea of Tennessee, Matthias Richards, Erastus Root, John Ross, Ebenezer Sage, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Samuel Shaw, John Smilie, George Smith, Henry Southard, John Taylor, Uri Tracy, Robert Whitehill, and Richard Winn.

The motion was opposed by Messrs. FINDLEY and SMILIE, on the ground that it had been long settled by practice that the correspondence with the Heads of Departments should be in writing, as a more responsible mode. If further information was wished, it could be obtained in writing. If the Secretary of the Treasury were to come to this House to take part in its deliberations, and was to be answered in anything he might say by the members of the House, it would be better at once to make him a member of the House, as in monarchical Governments. When the law constituting the Treasury Department had been passed, the Secretary of the Treasury had been every thing in finance, there being then no Committee of Ways and Means. It appeared at that time to be the wish of the party who supported him that he should so continue; and after a long struggle, when the Republicans had carried the question for having a Committee of Ways and Means, they

JUNE, 1809.

Finances.

H. OF R.

thought it a great point gained. The right of the Secretary to appear in person here was inconsistent with the views of the Republicans. It never had been approved of by the Republican party, and it was hoped the vote on this question would show that it was not yet.

The resolution was supported by Messrs. DANA and RANDOLPH; by the former on the ground that the House ought to know more on this subject than was officially known, and that they should have the same information which appeared to be possessed by particular members on the subject of the operations of the Commissioners of the Sinking Fund, and of the Treasury Department. In reply to Messrs. FINDLEY and SMILIE, it was said by Mr. RANDOLPH, that the Constitution had denied the power to make the Heads of Departments members of the House, but not the power now proposed to be exercised. Many questions had been stirred during the debate—and from whom could the House with greater propriety derive information as to the present and past state of the funds of the Commissioners of the Sinking Fund, and as to what were deemed to be their resources, than from the Secretary of the Treasury? And in what manner could this information be more conveniently received than by oral testimony? It was not proposed to enlarge or decrease his sphere of action. Indeed, if he had a seat on the floor, the House would derive no slight benefit from his intelligence. The creation of the Committee of Ways and Means, did not affect this question. There was no occasion to look back to the feuds and party bickerings of former times to decide one of the plainest questions in the world. Was it of no moment to have the opinion on a doubtful case of the man who was to decide it, who was to carry the law into execution when passed? As to the mode of receiving his opinion, the Secretary could give more information orally in one hour than by writing in five. The Secretary was certainly not a man who need be ashamed to show his face on the floor; it was an honor to him to be called on, and appearing here in person would be even to him a saving of time and labor.

Mr. RANDOLPH's motion was negatived—yeas 41, nays 83, as follows:

Y^{EAS}—William Baylies, Daniel Blaisdell, James Breckenridge, John Campbell, William Chamberlain, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Howell Cobb, Samuel W. Dana, John Davenport, jun., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Jonathan H. Hubbard, Richard Jackson, Herman Knickerbacker, Joseph Lewis, jun., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Vincent Matthews, Archibald McBride, Samuel McKee, Jonathan O. Mosely, John Nicholson, Joseph Pearson, Benjamin Pickman, jun., Elisha R. Potter, John Randolph, Thomas Sammons, Samuel Smith, John Stanley, James Stephenson, Jacob Swoope, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, and Kilian K. Van Rensselaer.

N^{AYS}—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, Burwell

Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, James Cochran, James Cox, William Crawford, Henry Crist, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jun., Peterson Goodwyn, Daniel Heister, William Helms, James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Robert Marion, Alexander McKim, Pleasant M. Miller, Wm. Milnor, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, Gurdon S. Mumford, Thos. Newton, Wilson C. Nicholas, Timothy Pitkin, jun., John Porter, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Samuel Shaw, Daniel Sheffey, John Smilie, George Smith, John Smith, Henry Southard, Richard Stanford, Samuel Taggart, John Taylor, John Thompson, Uri Tracy, George M. Troup, Archibald Van Horn, Robert Weakley, Laban Wheaton, Robert Whitehill, Richard Winn, and Robert Witherspoon.

The House having agreed to take up the report of the Committee of the Whole, on the table,

Mr. DANA moved that the bill lie on the table, to give him an opportunity to move that the Secretary of the Treasury be required to lay before the House, certain information.

The motion was negatived—68 to 39.

Mr. DANA moved to amend the bill, by inserting a provision restricting its operation to a case in which the products of duties on imports and tonnage, &c., "shall be insufficient to discharge the sum of eight millions annually, pledged for the payment of the public debt."

Mr. LIVERMORE moved to adjourn—ayes 47, noes 54.

Mr. J. G. JACKSON moved that the bill lie on the table—ayes 42, noes 54.

Mr. PITKIN commenced a speech against the bill; but having sat down to permit explanation by Mr. J. G. JACKSON—

A motion was made by Mr. J. G. JACKSON to adjourn, (with Mr. PITKIN's consent,) and carried—near five o'clock.

SATURDAY, June 17.

Mr. POTTER presented a petition of Thomas Lindsey, of Bristol, in the State of Rhode Island, stating that, in the month of May last, his sloop, called the Philadelphia, brought into the port of Charleston, State of South Carolina, a number of French families, together with their negro slaves, from the Island of Cuba, to prevent their being murdered by the Spanish populace of that Island, in consequence of which the said sloop has been libelled and condemned for a violation of an act of Congress which prohibits the importation of slaves into any part of the United States, and that it is probable the cargo of the said sloop, upon the same ground, may also be condemned; and praying such relief in the premises, as to the wisdom of Congress shall appear just and proper.

H. OF R.

John Murray.

JUNE, 1809.

Mr. SHEFFEY laid upon the table the following resolution, premising that he did not mean to call it up this day, but at a future day, when he conceived that he should be able to prove to the satisfaction of the House that this was the proper mode of disposing of the subject :

Resolved, That a committee be appointed to bring in a bill authorizing the President of the United States to appoint Commissioners to try and determine the dispute between the United States and the person who was ousted from the possession of a certain portion of land called the Batture, at New Orleans, on the 25th of January, 1808."

On motion of Mr. LOVE,

Ordered, That the Committee for the District of Columbia be discharged from the farther consideration of the petition of the President and Directors of the Bank of Alexandria, referred to them on the sixth instant, and that the said petition be referred to the Secretary of the Treasury, with instructions to examine the matter thereof, and report the same, with his opinion thereupon, to the House.

A message from the Senate informed the House that the Senate have passed a bill, entitled, "An act to change the post route from Annapolis to Rockhall, by Baltimore to Rockhall; to which they desire the concurrence of this House.

JOHN MURRAY.

Mr. JOHNSON, from the Committee of Claims, to whom was referred, on the thirty-first ultimo, the petition of John Murray, made a report thereon; which was ordered to lie on the table. The report is as follows:

That the petitioner prays the payment of three loan-office certificates of the following description, viz: No. 13,975, for \$200, dated March 29, 1779, payable with interest, March 29, 1782, to Dr. Henry Murray, or bearer, signed Francis Hopkinson, treasurer of loans, and countersigned Thomas Harwood; No. 13,976, for \$200, of the same tenor and character as the above certificate; No. 6,400, for \$600, also of the same tenor as the above certificate.

Your committee having examined the merits of this case, state, that the claim appears to be just, and nothing prevents relief but the acts of limitation. It will appear, from the letter of the Secretary of the Treasury, that these loan-office certificates are genuine, that they did issue, and that they are outstanding and unpaid, as appears by the records of the Treasury Department. And the belief that they are genuine, and the identical certificates issued, as appears upon record, is strengthened by their being now presented in the name of the heirs of the original owner. The petition states, that, in June last, upon the date of the said petition, upon repairing an old desk which belonged to his deceased father, Henry Murray, these loan-office certificates were found in a secret drawer, which fact is proven by an affidavit which accompanies the petition; that Dr. Henry Murray died in 1785, and the existence of these certificates was unknown until the above discovery, which deprived the representatives of the said Henry Murray of the benefit of those laws which provided for the redemption or payment of such certificates. Your committee have no doubt, therefore, upon the merits of this claim, that the certificates are genuine,

and that they remain unpaid; and that the circumstances of the temporary loss of the said certificates, by which the representatives of said Dr. Murray were deprived of the benefit of the laws which provided for the redemption of these claims was not in the control of either the representatives, or said claimant, or in the Government of the United States, and neither can be blamed in this transaction. But, notwithstanding this statement and opinion in favor of the merits of this claim, it is expressly barred by the statutes of limitation, and from that circumstance alone the committee feel themselves bound to report against the prayer of said petitioner, in conformity to their reports in other cases, until, by a solemn decision of this House, the statutes of limitation are disregarded in the payment of such claims. Your committee have thought this a fortunate case to discover the will of this House upon the statutes of limitation when just claims are barred. But your committee are unwilling to offer to this House a resolution before they present in a concise view the laws and the conduct of the United States upon the subject of these claims, which will better enable the House to judge upon the course to be pursued with less embarrassment. Leaving out of view the many various and liberal provisions upon the subject of claims, it will be sufficient to state, that on the 21st of April, 1794, an act passed limiting the time for presenting claims for destroyed certificates, including loan-office certificates, to the 1st of June, 1795. That, on the 3d of March, 1795, an act passed making further provision for the support of public credit, and for the redemption of the public debt, the fourteenth section of which declares that all certificates, commonly called loan-office certificates, final settlements, and indents of interest, which, at the time of passing this act shall be outstanding, shall, on or before the 1st day of January, in the year 1797, be presented at the office of the Auditor of the Treasury of the United States, for the purpose of being exchanged for other certificates of equivalent value and tenor, or at the option of the holders thereof, respectively, to be registered at the said office and returned; and every of the said certificates which shall not be presented at the said office within the said time shall be forever after barred or precluded from settlement or allowance. From this provision one year and ten months were allowed to present and settle these claims. That, on the 12th day of June, 1798, a bill passed respecting loan-office and final settlement certificates, &c., suspending the provision already recited, which barred this description of claims one year from the passage of the act; from which term the statute has barred these claims, and still remains in force. Therefore,

Resolved, That the prayer of the petitioner ought not to be granted.

TREASURY DEPARTMENT, June 16, 1809.

SIR: In answer to your letter of this day, I have the honor to state, that there is not, to my knowledge, any other objection to the payment of the three loan-office certificates in the name of Dr. Henry Murray but what arises from the acts of limitation. Such certificates were issued, and, as appears by our records, are still outstanding, having never been paid. Those now presented appear to be the identical certificates thus issued; and what removes every doubt is, their being now presented in the name of the heirs of the original owner.

I have the honor to be, with great respect, sir, your obedient servant,

ALBERT GALLATIN.

Hon. R. M. JOHNSON, *Chairman*.

JUNE, 1809.

Finances.

H. OF R.

FINANCES.

A motion was made by Mr. DANA, that the House do come to the following resolution:

Resolved, That the Secretary of the Treasury be directed to lay before this House such information as may be in the Treasury Department, touching the exercise or construction of the duties, powers, or authorities, mentioned or contained in the tenth and nineteenth sections of the act of the third of March, one thousand seven hundred and ninety-five, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," as the same may appear from any minutes or proceedings of the Commissioners of the Sinking Fund, and also copies of any correspondence with the Directors of the Bank of the United States, respecting the making of any loan or loans for reimbursing or paying the whole or any part of the stock created by virtue of the act of the eleventh of February, one thousand eight hundred and seven, entitled "An act supplementary to the act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States.'"

A motion was made by Mr. ROSS, that the said resolution do lie on the table; and the question being taken thereupon, it was determined in the negative—yeas 51, nays 56, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jun., Ezekiel Bacon, David Bard, Burwell Bassett, Adam Boyd, John Brown, Robert Brown, William Butler, Joseph Calhoun, James Cochran, James Cox, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jun., Peterson Goodwyn, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Alexander McKim, John Montgomery, Nicholas R. Moore, Thomas Newton, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Benjamin Say, Samuel Shaw, John Smilie, George Smith, John Taylor, George M. Troup, Robert Weakley, Robert Whitehill, and Robert Witherspoon.

NAYS—William Baylies, William W. Bibb, James Breckenridge, John C. Chamberlain, William Chamberlin, Matthew Clay, Samuel W. Dana, John Davenport, jun., William Ely, James Emott, William Findley, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Richard Jackson, Herman Knickerbacker, Joseph Lewis, jun., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Nathaniel Macon, Robert Marion, Vincent Matthews, Samuel McKee, William Milnor, Thos. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Peter B. Porter, Elisha R. Potter, John Randolph, Thomas Sammons, Lemuel Sawyer, Daniel Sheffey, John Smith, Samuel Smith, Henry Southard, Richard Stanford, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and Ezekiel Whitman.

The question was then taken to agree to the resolution, and resolved in the affirmative—yeas 65, nays 63, as follows:

YEAS—Ezekiel Bacon, William Baylies, Burwell

Bassett, William W. Bibb, Daniel Blaisdell, James Breckenridge, William Chamberlin, Matthew Clay, James Cochran, Henry Crist, Samuel W. Dana, John Davenport, jr., Joseph Desha, William Ely, Jas. Emott, John W. Eppes, William Findley, Meshack Franklin, Thomas Gholson, jr., Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Richard Jackson, William Kennedy, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Nathaniel Macon, Robert Marion, Vincent Matthews, Pleasant M. Miller, William Milnor, Thomas Moore, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Joseph Pearson, Timothy Pitkin, jr., John Porter, Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Randolph, Matthias Richards, Thomas Sammons, Daniel Sheffey, John Smith, Samuel Smith, Richard Stanford, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and Ezekiel Whitman.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Adam Boyd, John Brown, Robert Brown, William Butler, Joseph Calhoun, James Cox, William Crawford, Richard Cutts, John Dawson, Jonathan Fisk, Barzillai Gannett, Gideon Gardner, Peterson Goodwyn, William Helms, James Holland, Jacob Hufty, Richard M. Johnson, Thomas Kenan, John Love, Aaron Lyle, Samuel McKee, Alexander McKim, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, John Rea of Pennsylvania, John Rhea of Tennessee, John Roane, Erastus Root, John Ross, Ebenezer Sage, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, John Smilie, George Smith, Henry Southard, John Taylor, George M. Troup, Robert Weakley, Robert Whitehill, and Robert Witherspoon.

The House resumed the consideration of the unfinished business of yesterday.

The question on the motion of Mr. DANA, to amend the said bill, by inserting, after the words, "according to law," the words, "whenever the product of the duties on imports and tonnage, with other moneys appropriated to the Sinking Fund, after reserving the yearly sum of six hundred thousand dollars, as by law provided, towards the support of Government, shall be insufficient to satisfy and discharge the sum of eight millions of dollars annually, as appropriated and vested by law in the Commissioners of said fund," which was depending and undetermined at the time of adjournment, being again stated:

Mr. PITKIN advocated the amendment at length, and opposed the bill.

Mr. QUINCY spoke at length against the bill.

Mr. SHEFFEY replied.

Mr. RANDOLPH moved that the bill and amendment be indefinitely postponed, and spoke at length in support of the motion, and against the bill. When he concluded, the motion for postponement was negatived by yeas and nays—75 to 52, as follows:

YEAS—William Baylies, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Howell Cobb, Samuel W. Dana, John Davenport, jr., William Ely, James Emott,

H. OF R.

Finances.

JUNE, 1809.

Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Richard Jackson, jr., Robert Jenkins, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Nathaniel Macon, Vincent Matthews, Archibald McBride, Thomas Moore, Jonathan O. Mosely, Joseph Pearson, Benjamin Pickman, jr., Elisha R. Potter, Josiah Quincy, John Randolph, Thomas Sammons, Samuel Shaw, Samuel Smith, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, James Cochran, Orchard Cook, Jas. Cox, William Crawford, Richard Cutts, John Dawson, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Peterson Goodwyn, Daniel Heister, William Helms, James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Robert Marion, Samuel McKee, Alexander McKim, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Daniel Sheffey, John Smilie, George Smith, John Smith, Henry Southard, Richard Stanford, John Taylor, John Thompson, Uri Tracy, Archibald Van Horn, Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.

The question then recurred upon agreeing to Mr. DANA's amendment, as before recited; and the same being taken, it was determined in the negative—yeas 45, nays 77, as follows:

YEAS—William Baylies, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Samuel W. Dana, John Davenport, jr., William Ely, James Emott, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Nathaniel Macon, Vincent Matthews, Archibald McBride, Jonathan O. Mosely, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Thomas Sammons, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, James Cochran, Orchard Cook, James Cox, William Crawford, Richard Cutts, John Dawson, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Peterson Goodwyn, Wm. Helms,

James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, Thos. Kenan, Wm. Kennedy, John Love, Aaron Lyle, Robert Marion, Samuel McKee, Alexander McKim, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Daniel Sheffey, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Taylor, John Thompson, Uri Tracy, Archibald Van Horn, Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.

Another motion was made by Mr. DANA, to amend the bill, by adding to the end thereof, the following: "*Provided*, That no money shall be borrowed in virtue of this act until after at least — months previous public notice of such intended loan;" and the question being taken thereupon, it was determined in the negative—yeas 47, nays 74, as follows:

YEAS—William Baylies, William W. Bibb, Daniel Blaisdell, James Breckenridge, William A. Burwell, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Howell Cobb, Samuel W. Dana, John Davenport, jr., William Ely, James Emott, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Robert Jenkins, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Nathaniel Macon, Vincent Matthews, Archibald McBride, Jonathan O. Mosely, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, Samuel Smith, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, Adam Boyd, John Brown, Robert Brown, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, Orchard Cook, James Cox, William Crawford, Richard Cutts, John Dawson, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Peterson Goodwyn, Daniel Heister, William Helms, James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Robert Marion, Samuel McKee, Alexander McKim, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, John Nicholson, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, Benjamin Say, Ebenezer Seaver, Daniel Sheffey, John Smilie, George Smith, John Smith, Henry Southard, Richard Stanford, John Taylor, Uri Tracy, Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.

The bill was then ordered to be engrossed, and read the third time on Monday next—ayes 70.

JUNE, 1809.

Batture at New Orleans.

H. OF R.

MONDAY, June 19.

Mr. PETER B. PORTER, from the committee appointed on the memorial of Joseph Wilkinson, jr., presented a bill authorizing the discharge of Joseph Wilkinson, junior, from his imprisonment; which was read twice and committed to a Committee of the Whole to-morrow. Mr. PORTER, from the same committee, also presented a detailed report; which was read, and referred to the same Committee of the Whole.

On motion of Mr. GOLD, a committee was appointed to inquire into the expediency of providing by law for ascertaining and settling the controverted boundary of the public land at West Point, in the State of New York; with leave to report by bill, or otherwise.—Mr. GOLD, Mr. GOODWYN, Mr. VAN DYKE, Mr. SHAW, and Mr. CRAWFORD were appointed the committee.

The bill sent from the Senate, entitled "An act to change the post route from Annapolis to Rockhall, by Baltimore to Rockhall, was read twice, and ordered to be read the third time this day.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to amend and continue in force an act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" to which they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act to amend and continue in force an act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," was read twice, and committed to the Committee of the Whole, to whom was committed the bill to amend and continue in force an act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

THE BATTURE AT NEW ORLEANS.

The House proceeded to consider the resolution submitted by Mr. Macon, on the sixteenth instant, in the words following, to wit:

"Resolved, That so much of the Message of the President of the United States of the seventh of March, one thousand eight hundred and eight, as relates to the batture in the suburbs of St. Mary's, adjoining New Orleans, and the documents accompanying it, together with the petitions of Edward Livingston, and the petition of the citizens of New Orleans on the same subject, and the documents which accompanied the same, be referred to the Attorney General of the United States, and that he be instructed to receive and collect such other testimony as may be necessary to ascertain the title of the United States to the before-mentioned batture, and that he be directed to report to this House, at the next session of Congress, his opinion as to the validity of the claim of the United States to the said batture."

Mr. BURWELL thought that this was not the proper course to pursue; but that the course recommended at the last session was the proper

one, viz: to give the petitioners the right of appeal from the decision of the Orleans court to the Supreme Court, or to give the United States the same right, should the decision be against them. He could see no advantage in the procrastination now proposed, nor any injury to the United States or the city of New Orleans, in the course which he advocated. He doubted, although the letter of the law of 1807 might cover this case, whether it was ever intended that that law should operate as this had done. My intention, said he, in voting for it, was that it should apply exclusively to the Western lands, commonly called the Yazoo lands, and such other lands as were occupied by hundreds who might be formidable from their numbers. To undertake jurisdiction on questions of property is taking upon ourselves the functions of another department, of the Judiciary. The case involves important points of law—and let me ask, whether gentlemen in this House are so well read in law as to be able to decide such an important point as this? It does appear to me that on all questions of private property arising in the United States, where the question of right is not to be brought before this House, we ought to consult the convenience of the parties by promoting dispatch. On the question whether this property belong to the United States or to the petitioners I am completely ignorant. Nor would I have it inferred that I believe the petitioner to have a right to the property; I take it that the claim of the United States must be good, or the inhabitants of Orleans would not be so zealous in support of it. Mr. B. dwelt further on the difficulty of deciding in this House on complicated claims to property, if it were right in any case so to do.

Mr. POYDRAS asked for the reading of a letter which he had received from the Governor of Orleans Territory, which was accordingly read. The letter states, that if it were possible that the committee to whom Mr. Livingston's claim was referred could now visit New Orleans, they would be convinced that the batture, now covered with water, was in fact the bed of the river, and, therefore, could not be private property. Mr. P. stated the history of this piece of alluvion at some length, and the circumstances under which it had always been deemed public property.

Mr. SHEFFEY said that, before passing this resolution, gentlemen ought to ascertain what the Attorney General could do in this case. He could not compel the attendance of witnesses, or collect testimony of circumstances which occurred a hundred years ago; and unless he could do this, it was impossible he could examine the title, for testimony as to facts was essential to enable him to form a correct opinion. What influence could the opinion of the Attorney General have? Was the right of the citizen to fall prostrate before such an *ex parte* opinion or statement as that might be? If it was not to have influence, why thus evade a decision on the prayer of the petitioner? If it was to have any influence, it must be a pernicious one, because founded on *ex parte* testimony. Would the House go into the

H. OF R.

Batture at New Orleans.

JUNE, 1809.

merits of the case on this opinion, when obtained, without affording an opportunity to the party interested to prove that the law was not correctly expounded nor the facts correctly stated? Surely not. If they did not, if they heard opinions on both sides, they converted this House into a judicial tribunal. Was this body calculated for that branch of Government? No; this, Mr. S. said, is a Government of departments, each of which ought to be kept separate. What, sir! is this a question of right between the United States and an individual, and we are about to take it into our own hands, to wrest it from the Constitutional authority, and decide it ourselves? I hope we shall not; and, therefore, I am against this proposition. What does the Attorney General state in his report? Aware of the impropriety of his deciding, he tells you—what? That the usual course, where the rights of the United States have been involved, has been to appoint commissioners to hear and decide. Here the Attorney General tells you it is not proper for him to decide. And I should never wish to see the case in which the Attorney General's opinion is to give authority for dispossessing an individual of his property; for if it can be done in one case it may be in every case. Any individual may be driven from his property by military force, and then his title be decided by an ill-shapen, one-sided statement and opinion of the Attorney General. Against such a decision I do protest. Is it because you have power on your side, sir, that you will not submit to a judicial decision of this question? If there be a controversy about a right, there ought to be a judicial decision.

I, sir, have been unable to see how an individual having property, of which he was put in possession in 1804 or 5 by a judicial decision, could be dispossessed of it by the act of 1807, the operation of which was limited to acts done hereafter, that is, after the passing of that act in 1807. That law too speaks of "lands ceded to the United States." Was the batture ceded to the United States? I say not, because it was private property before the United States possessed the sovereignty of the country. By the treaty of 1803 with the Government of the United States, the rights and property of the inhabitants of Louisiana was secured to them. What then is the inference, from this state of the case? That the United States got possession illegally, in defiance of judicial authority. I am sorry to see that the judicial authority has been set at defiance, and the Presidential mandate carried into effect at the point of the bayonet, right or wrong. This was the case. Those who were put in possession were ousted by military force. Let me not be understood as throwing odium on the Executive; far from it. I believe the Executive acted conscientiously, but upon an *ex parte* statement. The President was never told that the case had been judicially investigated. Those facts were taken for granted, on the other hand, which did not exist, and those which formed the foundation of the true merits of the case, were withheld.

Mr. S. went into an examination at some length

of the legal points and facts involved in this question. Was the House, when it had received the Attorney General's report, to establish itself into a judicial tribunal, send for witnesses, or take an *ex parte* statement as respected the United States or the individual? Gentlemen would then ultimately be convinced, if they were not now, that a body like this was incompetent to do justice to a contested claim for property.

When the opinion of the Attorney General should come before the House, if it were the same as already given in favor of the title of the United States, would Congress, because the United States had obtained a tortuous and illegal possession, deny an opportunity of investigation before a tribunal of justice? A shadow of justice might be held out, but it would be a shadow indeed. The party petitioning had already had a decision in his favor. And, after the parties had been fully heard, after the judges had pronounced their decision in favor of the petitioner, would the House pretend to say that he had not a color of right?

Mr. S. concluded his observations by expressing a hope that the reference to the Attorney General would be rejected; that a speedy mode of decision would be adopted; that the right of the claimant should be fully investigated; that it should be ascertained whether his claim was founded in justice or was a spurious one, and the case decided accordingly.

Mr. POYDRAS spoke at some length in reply to Mr. SHEFFEY, and in defence of the title of the United States. The batture had many years ago been considered as public property, and no one who examined the circumstances of the case could for a moment doubt it. He said that it had never been claimed as private property until after it came into the possession of the United States. He hoped the rights of the public and of the people of New Orleans would not be trampled upon to grant the petitioner his prayer.

Mr. MACON said that he was himself in favor of giving the right of the United States to the property to the people or corporation of New Orleans, and letting them and the individual contest it. There was nothing new, however, in the reference of a subject to the Head of a Department, whose opinion would have no more weight than reason, and so far only ought it to have weight. Mr. M. said he had no more desire to interfere with the judiciary than either of the gentlemen who had spoken. If provision was made for trying this case, must it not be extended to all others? In order to do justice, it must be done to all. Had not a special court been refused in relation to a property of much greater value than this? Before Congress made a special court for a certain case, they ought to look at the consequences. It was departing from the general system of the nation to appoint a court for a special case. Perhaps there was something in this case which differed from other cases: but he doubted whether it would warrant the appointment of a special court. Mr. M. said he saw no other way of treating this subject but by letting it go before the courts already organized. If the right was in the

JUNE, 1809.

Batture at New Orleans.

H. OF R.

petitioner, be the consequence what it might, the city of New Orleans had no right to take it away from him.

Mr. Ross said that the delegate from the Territory seemed to fear that the question of right would be decided now. The decision of this resolution either one way or the other would require delay. The House must first decide whether they would act on the case or not. If not, it was to no purpose to have the testimony collected. Was it the best way of collecting testimony, to refer a subject to the Attorney General, who has no power to issue compulsory process? He was not of opinion that this House could exercise judicial authority; if it did, he would not have evidence collected in the mode proposed. If the right of the petitioner had been invaded, the invasion of that right was the invasion of the right of every citizen of the United States. He did not mean to express any opinion as to the right in this case, for he had not formed any. It was impossible for the House to decide fairly between the United States and Mr. Livingston, when the evidence was collected by an officer of the United States. Whenever commissioners were to be appointed, they ought to be appointed by agreement, or with the consent of both parties to the litigation. Errors often occurred, even in taking depositions, by the omission or misconception of a word, and the same might much more readily occur in this case.

What good could result from all this delay, if it was not intended to decide on this case ultimately? Let commissioners be appointed, said Mr. R., to hear and decide this point. The general position that we ought not to establish special tribunals for particular cases is correct; but, like other general rules, is not without an exception. If a difference arises between two States, do they not appoint commissioners to decide on the right? This course was pursued in the contest between the States of Pennsylvania and Connecticut, in regard to the right to the soil of a tract of country. And why was it so decided? Because the case was one *sui generis*, totally distinct from all cases coming regularly before a regular judicial tribunal. Is this such a case? From everything which I have heard of this case, it is such a one. This House is not the proper tribunal to decide it; but, if it do decide it, the Attorney General is not the proper commissioner to take depositions.

Mr. TROUP observed that this case was probably one which would fall under the old maxim, *nullum tempus occurrit regi* or *reipublica*. It appeared to him that there was a Constitutional difficulty in this case, which did not appear to have suggested itself to the mind of any gentleman. First, has the United States a claim, either real or disputed, to this territory? Whether disputed or otherwise, provided the claim be asserted on its part, the question is, has the Congress of the United States a power to decide the validity of that claim? And if it has, is it proper so to decide it? What is the subject-matter in dispute? Public property; and what species? Landed. Then

the question results, has Congress a right, in order to determine its title, to refer it to any tribunal whatever? I contend not; the right to public property was originally in the people of this country; they could never be divested of their great public right to the landed property of the nation, but by their express consent. They did give that right to the Congress of the United States, in declaring that it should have power to dispose of and make all needful rules and regulations concerning public territory. Would it have had that power, if this right had not been expressly delegated? I know that, under the old Articles of Confederation, Congress did undertake to legislate as to property; but it was always questionable whether they had a right to do so—and this was not the only point on which Congress did exercise powers which were brought into question. The right to determine claims to public property is not only guaranteed exclusively to Congress by the Constitution, but the practice has been invariably pursuant to it: it was so in 1807. The Government not only asserted its right in the first instance, but asserted its power to enforce the right at the point of the bayonet. If the public have always been in possession of a certain property, the man who enters on it without their consent is a trespasser on that property. Upon this view of the subject, there is a Constitutional difficulty on which the House should decide, before it entertains a motion for delegating a power to decide this question to any tribunal or commission whatever.

Mr. BOYD said, admitting all the gentleman had said to be true, his observations did not apply to this case. He had spoken of the right to public property. The question now was, whether this was public property or not; if it were certainly public property, on which ground the gentleman rested his argument, there could be no question on the subject. It was asked only before they decided between the individual and the United States on the right to land, not confessedly public property, but claimed as such, that fair investigation should be had. Mr. B. disclaimed the power of deciding judicially upon the subject; it was a right which he had never thought of this House claiming. A delay of justice was a denial of it. The individual petitioning had been in possession of the property; it had been taken from him by force, and he now asked a trial of his title before a competent court—and this opportunity, Mr. B. said, he ought to have as speedily as possible.

Mr. RANDOLPH said he should vote against that report. He said it was no part of his intention to deliver any opinion on the merits of the claim, although he had devoted not a little of his time to the study of that question, for two reasons: first, that it would be a prejudicated opinion, inasmuch as that was not the question which the House were called upon to decide, even if it were competent to decide it. I am extremely sorry, said he, that the law of 1807 has been brought into view of this House by my friends from North Carolina and Georgia, and for this reason; that that law has no bearing at all on the present question. Its object was wholly different from that

H. of R.

Batture at New Orleans.

JUNE, 1809.

to which it has been misapplied. What, sir, was the object of that law? To defend against a conspiracy, I may properly term it—against the lawless violence of confederated associations, a vast property. How has it been applied? Not to a great public property, but to a speck of land, to which, as I understand it, a single individual, or at most three or four, put in a claim. Such an application as that of the law in question was never intended by the Legislature; and, if applied to such a property as the batture, and to the case of a single individual, may be applied to the property of every man in society. What is the doctrine of my friend from Georgia? That the public are always supposed to be in possession of the national domain. True, sir, and it is also true that those who enter upon it and endeavor to appropriate it to themselves, are trespassers, and, as such, may be resisted by force. But that is not the case in the present question—very far from it—for the public never had been in possession of the property in question.

Without attempting to enter into the merits of the real title to the land in question, let us take it on the ground of the right of the citizen. A citizen comes before this House, and complains that he is dispossessed of his common right by arbitrary power. If, after a cause has been heard by a court, and a citizen put in possession of a property, by a decree of that court, he is dispossessed of it by military violence, where, if not before this House, is he to prefer his claim for redress? There is no court before which he can go, because the court which is the last resort in this case has already unavailingly given its decision. There is no court of appeal, no superior tribunal, and if there were, and a decree of the Supreme Court obtained in his favor on the appeal, what is any decree to avail against armed men—against muskets and bayonets? But, this is not the only reason why I am sorry that the act of 1807 has been brought in to apply to this case. It is because, if this House can be once prevailed upon to consider this case as analogous to the Yazoo case, many most injurious consequences must follow therefrom. The first is, that that odious and supremely infamous claim will be put upon a ground which it is by no means entitled to occupy; and I entreat my friend from Georgia, and those whose minds are unalterably made up on the Yazoo question, not to give their enemies such a prize as they must have on us, if we agree to confound the Yazoo claim with that before the House. There is no sort of analogy between them. On the other hand, sir, supposing the right to be in the United States, I beg gentlemen not to create so forcible an interest against the rights of the United States as will infallibly be embodied against it if we confound the two. I have no idea of giving the Yazoo men such a handle. Again, let us suppose, if we can suppose it, that the right is in the petitioner; may it not, supposing a great majority of the House to be against the Yazoo claim—we do not know how they are disposed—may it not create an unjust bias against the petitioner? So that, in whatever aspect we

view it, it is not only impolitic, but, what is worse, extremely unjust to attempt to identify the two cases. And, sir, it is a matter of curious speculation, that, while the act of 1807 has been brought into operation in the case of a solitary individual and a little speck of property to which it was not intended to apply, even supposing the case in question to have arisen subsequently to the passage of that act; that, although it has been misapplied in this case, it has not been applied to the case to which it was intended to apply, and for which it was enacted; for, if I understood my friend from Georgia a few days ago, some hundreds or thousands of intruders have set themselves down on the public lands, and the public force has never been employed against them. On the contrary, the artillery of Government has been brought into play against a single individual. It was, indeed, said that these intruders had agreed to remain as tenants at will; but, let them remain till they are sufficiently strong, and they will give you another chapter in the history of Wyoming; for, after they are sufficiently strong to hold territory, although the arm of Government has been applied successfully to oust a single individual put in possession by a decree of a court, you will find it nerveless to expel these men.

With regard to the doctrine *nullum tempus occurrit reipublicæ*, it is a dangerous doctrine, if carried to the extent to which I apprehend my friend from Georgia would carry it. I venture to say that the abuse of that doctrine in the celebrated case of Sir John Lowther and the Duke of Portland, which created one general sentiment of indignation in the British nation—an attempt under that maxim to deprive a subject, hostile to the Court, of property of which he had been long in possession, for the purpose of transferring it to a minion of the Court—that case, with all its aggravated enormities, does not come up to the case before the House; and I speak without reference to the question whether the petitioner has a right or not to the property in this case. The question of right is not before the House, and that question, decide which way you will, can have no sort of weight in the vote which the House ought to give. The question is this: Having been long in possession of a piece of land, the title deeds destroyed, records burnt, and possession the only title you have to show, an attempt is made to dispossess you of the property; a decree of court confirms your right; if the individual, under these circumstances, can be turned out of possession by main force and strength; and that, too, military force, there is an end in the right to property of every man in the country. Sir, I have been astonished, and grieved, and mortified, to see so little sensation created in this nation by the procedure in question. It strikes at the root of everything dear to freemen. There is an end of their rights. This doctrine has been applied, in the first instance, in the Territory of Orleans; but, where is the security that it will not be applied to-morrow in the Territory of Columbia, and the next day in every State in the Union? And, sir, I shall consider

JUNE, 1809.

Batture, at New Orleans.

H. OF R.

the acquisition of the Territory of Louisiana, otherwise so valuable, as a pernicious gift, if it be the means of the introduction of this doctrine. Suppose this case—for I believe there is not a part of the Union where there is a greater confusion of title than in this City of Washington—suppose it to have occurred here. Suppose it to be a matter of doubt whether property belongs to one individual or another, or to the Government. Suppose the question to have been settled by due course of law, and a legal decision to have been had thereupon; and then, suppose the President of the United States had taken this law, which my friend from North Carolina very properly calls the Yazoo law, to apply to the turning out the person put in peaceable possession of the property, and keeping him out. I do not know, for my part, any duties which the marine corps have to perform at the barracks to prevent them from being employed for that purpose. Suppose property of mine, or any man in this House, be in dispute; there is not a man of us who may not be turned out of possession; and how? Upon the doctrine, as I understand my friend, that the Government is always supposed to be in possession of property, and *nullum tempus occurrit*. So that, land in possession of your ancestors since their emigration, may be taken from you because the Government is always supposed to be in possession. A more flagrant abuse of power never was, never can be, committed; and the only ground on which it can be attempted to be sanctioned is, that it is a small spot of land, and the property of an individual; the very ground on which it becomes every individual to contest it. If the law had been applied to a country covered by vast hordes of Indians, the case would have been different; it would have been no individual claim. But, when we apply it to every little farm, to every cottage, if the people are not very different from what I believe them to be, they must unite *una voce* in reprobation of the outrage. I venture to say, if you go into any State, and attempt to dispossess any farmer or planter of his twenty-five acres in this way, they would rise in opposition to it. Sir, the old tea and stamp tax was nothing to it. It is a principle which comes home to the bosom and fireside of every man in the country; a principle which if we sanction, there is not an individual in the United States who may not to-morrow be turned out of his right and set adrift, and that, after a finding in his favor by a righteous jury.

What, then, is this case? An individual comes before us, and says, that after having been put in possession of a piece of land, (I speak not of the validity of his title; it is not concerned in this question,) he was dispossessed by military force of this property. These two facts I do not understand any member of this House to deny. And what does he claim? He claims of you, as the guardians of the rights of every man in society, *justice*. And where do you send him? To the Attorney General. I will suppose that in the Lowther and Portland case, the Duke of Portland had been referred to the Attorney General.

Would the English nation have endured it? No, sir. Much less would they have endured, military as the nation is becoming by the introduction of large standing armies, that he should have been dispossessed of his property by an armed military force, at the fiat of the Crown. The question is, what should be done? Sir, what should not be done is perfectly clear. It ought not to be done that the petitioner should be sent to the Attorney General, who has already given an opinion on his claim, though that is very immaterial, which opinion, it seems we cannot find. If I understand anything of this Government, however, it ought to be on record, and this return of *non est inventus* ought not to have been received. All that we have to do, it appears to me, is to make a provision, in the nature of a declaratory law, not amending the act of 1807, but, declaring what the law is; and we ought to quiet the rights, and the mind too, of every man in society, by declaring that, by the act of 1807, it was not intended to authorize the President of the United States to interpose the bayonet between the courts of justice and the individual. This power never has been given, never was intended to be given. The individual has a right to a remedy, somewhere, against those who thus ousted him. If I were to set myself down on this heath by which we are surrounded, and take possession of a spot of earth to which I have no more title than Robinson Crusoe, it is not in the power of the President to remove me, more especially after a court has given an opinion in my favor. I must be dispossessed by due course of law, and not of gunpowder and steel. I see a batture forming before my door in Georgetown. It may become a question to whom that batture belongs, for the territory has been ceded by the States of Virginia and Maryland in the same manner as Louisiana was by France. That question may be brought into court. Suppose it decided that the owner of the island is entitled to the batture, and he is put in possession, I ask whether it would be competent to the Executive, under the ubiquity of the right of the United States to the soil, and the maxim of *nullum tempus occurrit*, to remove the party thus put in possession; to take away the property and give it to a favorite, no matter whether the Corporation of Georgetown, or an individual? It could not.

As to the sensation which this question has appeared to excite, I consider it one of the most important questions which ever arose under this Constitution, and a question, too, the merits of which are not to be, by any possibility, affected by the question whether the claimant has a legal right to the property or not. I did expect, sir, when the act of 1807 passed, that it would have been applied to very different purposes. I did not expect that in 1809 there would have been two thousand persons on that property, permitted to hold it peaceably, when force was put in the power of the President to remove them; and, that the law would have been put in force only in relation to a small spot of land, the property of an individual not only unable to resist military

H. OF R.

Batture at New Orleans.

JUNE, 1809.

authority, but even to resist the Marshal. There was no cause for such interference. My colleague (Mr. SHEFFEY) has, indeed, explained the motives which may have influenced the decision. I believe that the President may be misled by evil counsellors. It is not investing a man with great Executive power, or placing him in a great department of the Government, that divests him of the frailty of man. Whatever may be brought in palliation of this outrage, it nevertheless strikes at the root of the rights of every man in society. The motive of the action belongs to the other House to consider, when a case is brought before them in which the question of the guilt or innocence of the party is involved.

I have said more than I intended, but I could not have said less. I could not reconcile it to myself as a freeman, determined to defend as long as I can my fireside and household gods against military power, to consent that the same right of my fellow-citizens shall be violated with impunity if I can help them.

Mr. LYON said that he was also of opinion that the President had been wrong in what he had done; but the law had compelled him to do it. Mr. L. referred to the law to show that the terms of it were imperative. The gentleman from Virginia, said Mr. L., takes it for granted that the petitioner was in possession of the property in question previous to the passage of the law; but I believe it was subsequent. I spoke of that law when it passed as I speak of it now; I told gentlemen that the law could take in other cases than those which they intended it to operate on; I told them that they were acting in direct opposition to the Constitution. I want to know what difference there is between this case and that of a man who owned land in any other Territory? The rigorous law has been but rigorously executed in relation to this case. I would repeal the law and appoint commissioners to take cognizance of the case. Repeal your unconstitutional law, and undo what has been done under it. You may smother the law, as they lately did the Olmstead business in Pennsylvania, but it will be understood to the original cause of it. I am glad to see that the gentleman from Virginia (Mr. RANDOLPH) has come to the end of his tether; he has persuaded the House to pass an unconstitutional law, and now compares it with the tea and stamp tax.—[The SPEAKER said it was doubtful whether it was within the rules of order for any member to say that a gentleman had persuaded the House to pass an unconstitutional law.] Mr. L. said, he believed he was always apt to speak the truth too bluntly. He would give his advice to undo the law, to accommodate what had been done, and bring the business to an end. This clause of the law would be found to fit a thousand other cases as well as it had done this; it was unconstitutional and improper; and the House never would do right until they wholly repealed the law.

Mr. GOLD said that this was one of the most important subjects that had ever been brought before the House. He did not mean to enter into

the merits of the case. The gentleman from Virginia had very clearly expressed all those sentiments which every man must feel on hearing the history of this case; and as regarded the ground taken, of *nullum tempus occurrit*, the gentleman had repelled it very properly—and indeed in that country whence the maxim had been derived, whenever it was attempted to be put in force against ancient possessions, it had been executed with great difficulty. It is in the very teeth of *Magna Charta*, which says that a freeman shall not be dispossessed of his freehold without a better right is ascertained. There are a variety of forms by which the right is guarded. If I, said Mr. G., understood the gentleman from Georgia (Mr. TROUP) he considers it a sacrifice of the rights of the United States to permit a decision on its property to pass into the hands of third persons. Even in England the prerogative is not carried so far. The Crown has frequently consented that the right of Government should pass into the hands of third persons, viz: of commissioners, for the purpose of investigation.

I will not trouble the House with lengthy remarks on this subject. I can hardly advert to it without feeling all that has been much more eloquently expressed by the gentleman from Virginia than it is in my power to express it. Let gentlemen look around and see if they can find a precedent for this transaction. And when we consider it, every man's feelings must be operated upon too strongly to permit him to argue. The course suggested by the gentleman from Virginia must prevail, or we no longer live under a Government of laws, and those principles on which it is founded are destroyed. The man ousted must be put in possession, must be restored to the possession of the property which the hand of violence has wrested from him; and I hope that a proposition to this effect in a proper shape will be presented.

Mr. ALSTON said, God forbid that he should be concerned in the smallest degree whatever in wresting from an individual property to which he was justly entitled. It had been stated by the gentleman from Virginia that the act of 1807 was not intended to apply to this case. From an examination of that law, said Mr. A., I verily believe that if ever there was a case on which that law could operate, this was such a case. Do you find anything in this law saying that it is to guard against associations? It speaks a language too plain to be misunderstood. The act says "if any person or persons" shall do so and so. This surely applies to individuals as well as to associations. Away then with the nice distinctions between this case and that of intruders on the lands of the United States. I shall not attempt to investigate the title of the claimant or of the United States in the present case. Why will gentlemen attempt to make a distinction between this case and that of any other individual who has intruded on the lands of the United States? If the United States had a claim to land, was it not the duty of the President, under the law of 1807, when an individual took possession of it, to remove him

JUNE, 1809.

Batture at New Orleans.

H. OF R.

from it? Surely it was. Was the claim of this petitioner laid before the commissioners appointed to take cognizance of claims to land in Louisiana? I believe not. Let, then, the proper authority make a decision on it. The court of Orleans was not the proper court. The right of the United States was not defended before the court of Orleans; and the decision before that court, therefore, ought to have no influence in leading the minds of gentlemen to a decision on this subject. The public have a claim; they are now in possession; and I will never consent to establish any tribunal for this, different from that which decides in similar cases.

Mr. GHOLSON said he thought it would better become the character of this assembly to discuss every subject with calmness and deliberation, and on its own merits, than to endeavor to influence the decision by an appeal to the passions. It was important that such a course should be pursued, whether with reference to a great political principle or to the interest of the individual whose rights were said to have been wantonly prostrated at the Executive will. I (said Mr. G.) have been early taught, and the doctrine has grown with my years, that the right of property is not one of the least consideration in a free Constitution. It is of a nature so sacredly inviolable that, when clearly ascertained, I would never encroach upon it by any means but through the regular constituted authority. It would have been under this impression that, had I been a member of the Legislature when the law of 1807 was introduced into the statute book, I should have been opposed to it. But receiving all the sanctions of a law, and as such containing a rule of conduct in certain specified cases, what was the Executive to do? Was he to set at defiance the law of the land? A doctrine like this can never be contended for. It seems however, that to satisfy gentlemen the President should have refused to carry this law into execution, which I acknowledge does usurp judicial authority.—[Mr. RANDOLPH said that his ground was that the President had not executed the law. If a law were ever so unconstitutional, the President having signed it, it would become his duty to carry it into effect. But he denied that he had carried it into effect.] Upon that point, continued Mr. G., my colleague and I are at issue. I rise not to discuss the merits of the claim, which I have no disposition to do. I rise to defend the late President of the United States, to endeavor, to the extent of my feeble powers, to place this question in a proper point of view. If the President of the United States has gone beyond the letter of the law, which itself tends to encroach on the rights of the citizen, I would be the last person to justify him in thus trespassing on the dearest rights of a freeman. But it is very easy to show that he has not exceeded the express provisions of the law in question.

The act of 1807 contains two clauses having a bearing on the subject; the first ascertaining the character of the persons to be ousted, and the second providing the means of ousting them. The

President is authorized to exercise this power, either where property was previously in possession, in which case he is to give notice, or where it was subsequently entered on, in which case he is not required to give notice. It is easy to show that this is one of the cases contemplated by that act. It is well known that the feudal law did exist in Louisiana previous to its acquisition by the United States, and that by that law alluvion does accrue to the Crown. Now if the feudal law did exist, and by that law alluvion did accrue to the Crown of France, does it not follow that the same right did accrue to the United States by the deed of cession from France, who owned the territory? If the claimant was in possession when this act passed, it became the duty of the President of the United States to give him three months notice previous to his removal; if not, no such notice was necessary. On this point I need only refer to the fact that it was not so early as the passage of the act, indeed not till the 23d of May, that the claimants came into possession. They were quieted in possession, so far as the rights of the United States were not concerned, on the 23d of May, 1807.

The decision of the corporation court of New Orleans is relied on as giving a title to the petitioner. That that decision did at all affect, in the remotest possible degree, the right of the United States, is a position which no man acquainted with the principles of law will contend for. The decision cannot affect the right of the United States, because it was not contested or defended before that court.

It is said that the feudal law does not exist in France. From time immemorial it has existed all over Europe. That it exists at this time in this country there can be no doubt. The right to lands is allodial, but is inherent in the Government. Is it denied that the Government can take property from an individual, making him compensation therefor? If the right to land be indefeasible, could the Government run a road through it? It certainly could not. I wish it to be distinctly understood that I do not attempt to say where the real right to the property in question does reside. But I do say, that, according to the treaty of cession, it did become the Government of the United States to exercise the power which the President under the law of 1807 did make use of.

If there has been any violation of right, it was in the passage of the law under which the President acted. It was such a one as, under present persuasion, I could not have voted for, even to remove a Yazoo purchaser. I would even give to such an one his right to a fair trial. I would not have agreed to pass it, for a reason given a day or two ago, that the right to trial by jury is inalienable; it is a right which descends to us with our other birth-rights; it is one without which liberty is but a name. It was an unfortunate circumstance that such a law did pass. But if the Legislature thought proper to enact such a law, let them not, in the name of the great God, throw the blame on their instrument, on the Pre-

H. OF R.

Batture at New Orleans.

JUNE, 1809.

sident, who was innocent of fault, and bound to carry the statute into effect. There is undoubted proof that the President only acted in pursuance of the statute. The retroactive part of the statute is the most horrible feature in it.

Mr. RANDOLPH.—Does the gentleman mean to advance this position, that there is in the Government of the United States (not of the State of Virginia, for instance) a right to take any property which it pleases on giving compensation to the owners?

Mr. GHOLSON continued.—I mean to advance no such position. This is an external Government, and all matters relating to internal concerns fall within the province of the State Governments, whose power in this respect will not be doubted. Although the Federal Government cannot exercise this power in the States, I by no means admit that they cannot exercise it in the Territories, over which they have a right to legislate. It is a right of such a nature as should be exercised with great delicacy and caution. Yet, though it is necessary that privileges should never be invaded but with a hallowed hand, it is sometimes necessary to give up a little for the general good.

But it is said that this is an extreme case, that this small spot was selected as the object of Executive vengeance. I am informed that in almost every instance of intrusion on the public lands, settlement was made by individual claimants. I would rather give up fifty times the value of land of the United States than to encroach against law on that of any individual. It was not the execution of the law which encroached on the rights of the citizen, but the law itself. I would ask, how can it be contended to the contrary? Who was in possession of the land when the law passed? It had been used as public property, and had every requisite to that character; and as such, when any one took possession of it, the President would not have done his duty under the act of 1807, had he not caused them to be removed.

Mr. RANDOLPH said he merely wished to say a few words in answer to his colleague, because he was afraid that he had put the question upon a footing which in justice to the petitioner it ought not to be placed upon. I would ask him (said Mr. R.) whether he thinks the right of the United States so untenable, their title so frail, or the prejudice against the title of the petitioner so weak, as to render it necessary to fortify the side which he has taken on this question by making it a question, as it already has been made, between the late President of the United States and the petitioner? Ought the feelings of the House to be touched in this manner? Ought that chord be made to vibrate? It is true that my colleague may say that the law of 1807 was first set on foot by myself. On me, then, let the blame rest, and not on the claim of the petitioner, who has already enough to contend with. On me let the whole weight fall. It does seem, from the uniform practice in this House, that when a man gets up to canvass any act performed by the Executive, under law or no law, he must preface

whatsoever he says, if he means to be listened to with respect, by a *disclaimer* of any sort of intention to censure the Executive. No matter how great the enormity in question, it is absolutely necessary, it would appear, in order to prevail upon the House to lend a favorable ear to your argument, to disclaim all design of inculpating the Executive. Do we live in a land of liberty, or do we not? I know that in England the throne is interdicted by the constitution from all attack, that the King can do no wrong; and yet, sir, when a wrong is committed there, they are not (to use a strong but expressive epithet) very mealy-mouthed, but arraign His Majesty's *Ministers* with all the freedom with which counsel in a court will arraign the credibility of a witness. I want to have some means within my power whereby I can thoroughly canvass the conduct of the Executive branch of the Government. Suppose a member to rise in his place, and instead of throwing a blame on the President, were to throw it on some poor head of a department; would he not be told that it was unmanly and unfair; that, under the Constitution, having no King who can do no wrong, it is not fair to lay blame on a secondary officer, but upon him who is responsible for the act? And there I have placed it. Could I think of blaming the Governor of Orleans Territory? I might as well blame the private who, in obedience to his orders, dispossessed the party put in possession. If we would also canvass the conduct of our Ministers, and the President is our Minister, we must drop this way of saying, as I believe they do in Catholic countries, the infallibility of the Pope, of saying "God bless the President! he is always just right, and can never do wrong!" But here, sir, is an enormous wrong—on whose shoulders shall we pack it? In my representative capacity, I shall consider it my duty, fall on whose shoulders it may, to state it. I know that it is an invidious task to charge any man with blame, and that rising to eulogise him is a much more agreeable one. But it seems that I am the cause of all this. The bill in question, it is well known, came from the Senate. It is equally well known to you, sir, if not, be it now known, that I never saw it before it made its entry into these walls. But with what show or color of justice can I be deemed the father of this bill? If it be meant that I was the cause of its being passed, because I was the humble instrument of arresting that claim until time and a majority of the House could be found to pass that bill, I am obliged to the gentleman for reminding me of what I believe the proudest triumph of my life. It was a glorious triumph—an unprecedented one—for that claim came here, not only with the undivided sanction of the heads of department, but with the sanction of the best talents of the nation, and of integrity equal to any within these walls. I hope it is not the last time that an honest majority in this House shall triumph over Executive influence.

But it seems that a great deal of warmth has been displayed on this subject; that we ought to

JUNE, 1809.

Batture at New Orleans.

H. OF R.

discuss the matter with great coolness. I should like to know of my colleague, if he were turned out of his house under the obligation of this same law, in a bleak and dreary winter's night, whether he would think a little of this warmth amiss. Whatever may be the opinion or belief entertained in States exempt from that accursed evil, I believe it is notoriously true that there is not a slave (who has no property of his own) that would not display greater warmth if his little house had been violated by his master in the way in which the property of the petitioner has been. When we are directing the bayonet, pointing the instrument, there is no occasion to be warm; but when it comes to our own throats—and it is coming—I do not mean it is the *intention*, but, if this principle be sanctioned, it must come, and I trust in God that, under any circumstances, even under the north pole, I shall never display less warmth on any such occasion than I have done on this.

My colleague undertakes to say what the law was in the Louisiana Territory prior to its cession, and in so doing opens the merits of the claim, which he said he did not intend to touch. Whether the feudal law is or is not, was or was not in existence there, cannot affect the question, inasmuch as the very grant of the property was an allodial grant, taken out of the operation of the feudal law of France by the express limitation of the grant itself. It is not true, as I understand it, that the feudal law is the law in all monarchical countries. [Mr. GHOLSON said that since the reign of Charles II there had not been that part of the feudal system in existence which required every man to do service, &c. But he had said and did maintain that there is now remaining in every part of Europe a portion of the feudal system. He certainly had only meant that the feudal system yet existed *quo ad hoc*.] Mr. R. continued.—It has been much the fashion for a long time in Europe, and particularly since Dr. Robinson published his celebrated history of Charles V, to account for everything by the feudal system. I do not understand, however, that it exists in Spain, but that property is granted as allodial.

Again, sir, I understand my colleague to advance the doctrine that the Federal Government possessed the right of taking any private property in the territories which it pleased for public use, paying the owner the value thereof—paying damages. I ask my colleague to show the grant by which the General Government holds the power, for it will be recollected that the power of this Government is more straitened than any citizen is in his property. It must show a grant of all the power it exercises. If the Government possess this power, I want to know how it got it.

In his zeal to defend the Executive, and throw the whole weight of the blame on the shoulders of those who passed the law, my colleague forgot that the President is as much committed in relation to that law as any man who voted for it. The law must apply to individuals, but it had reference to great tracts of territory. Where

was the necessity for this law to dispossess individual settlers, when a single constable was fully competent to that task? The power was granted in such a manner that it might be exercised on an individual, but it was given with reference to such cases as those now occurring in the Mississippi Territory, where so many get together as to form an interest stronger than the civil process, and capable of resisting it. Can my colleague say, if his title be litigated, and he be put in possession by a decree of the court, that he does take possession "without being thereto duly authorized by law?" Surely not.

We are told that the point in dispute is, has this land been ceded? But have not all the lands in the United States been ceded, except such as the grants to which were absolutely perfected at the Declaration of Independence? Was not the whole of Kentucky and Tennessee, and by far the greater part of Virginia and Pennsylvania, ceded by the Treaty of 1783? And to whom? To the individual States? No, sir; to the United States in their confederate corporate capacity. The King of Great Britain did not know, neither did France, when she made the treaty, any State in its individual capacity, but the whole Government of the United States as United States.

I do say and repeat, that this act has not been carried into effect, and the gentleman himself cannot say, that it has been carried into effect. Neither can he say, that the President was authorized to execute it in regard to this mud bank, without inculcating him for failing to execute it in case of the intruders in Madison county. When we speak of this particular case of the batture, we are told that this law, like the laws of the Medes and Persians, must be executed. If it was only a duty of the President to execute it in one case, he has been guilty of a dereliction of duty in not executing it in the other case.

I know that there are gentlemen far more adequate than I am to do justice to the merits of this case as connected with law. But, I declare, that according to the construction given to this law, there is no individual in the United States who may not be brought under the operation of that law, which it is well known was not passed with that intention, for it is to be gathered from the face of it that military power was not intended to be exercised unless the civil power was insufficient, and I defy any man under a fair construction to place it in any other point of view. Suppose the Secretary of War takes possession of your farm—you say it was never ceded to the United States; but will that declaration put you in possession against an armed force? Your property is taken from you under color of law; military despotism is established under color of law. There is nothing in imagination which can exceed this. Telling a man making a complaint to go to the Attorney General is something like telling a slave making complaint of ill-usage to go to the overseer, the man who has already made up an opinion against the complainant.

With respect to maxims in law, in which, no

H. OF R.

Batture at New Orleans.

JUNE, 1809.

doubt, my colleague is much better versed than I am, it is unquestionably true, as respects the doctrine of escheats, that the feudal system prevails in some of the States; but it never had been applied to the extent contended for by my colleague in any State in the Union, and certainly not in the State which we represent.

I am afraid, sir, that I have done a mischief where I meant to have done a good. If my object had been to favor the views of the petitioner, I certainly should not have taken the course which I have pursued. Whether the petitioner succeed in his object or not, is a secondary affair, compared with the great Constitutional privilege which has been violated in his person. I repeat it again and again. Let any man come forward and complain that his property never was ceded—you are told that the rights of the United States are not to be contested by the courts below, and in the mean time, leave the rights of the citizen to contend against a file of grenadiers with fixed bayonets;—and this we must do, it seems, for fear that incidentally some blame should fall on the President of the United States. Sir, we had better establish a principle in our Government, that the President can do no wrong, but hold his Ministers responsible for all he does, than hold our rights by this tenure. There will be then some sort of society. I dislike this business, when we find fault with subordinate officers, of being told that they are not responsible; and when we find fault with the President, being told that he is not responsible. Sir, I know as well as you or any other member can know, that he is a King in masquerade. I feel it; I know it. I speak not of the late President of the United States or of the incumbent. Every question which is brought up touching the liberty of the citizen serves but to confirm me in the opinion that this Government has an awful squinting towards monarchy!

Mr. GHOLSON said, that so far from clothing any President with an inviolability of character and assigning to him an incapacity to do wrong, he would go as far as his colleague or any other man in support of private and personal right, and to secure the inviolability of private property. Sir, said Mr. G., did any expression escape me to the disparagement of the right of the claimant? I only said, that under color of a title derived from the previous laws of the country, the President had considered it his duty to take possession of this land. I pledge myself even to go further. I would give the claimant possession, if he would give security to abide the result of a fair trial of the title. I conceive the law under which he was dispossessed to have been a most execrable one; I was desirous too that the blame should be placed on the right horse, and never said my colleague was the cause of it. But I believe, in an honest zeal against Yazoo perjury, he and his then colleague did subscribe their assent to a law which they would not otherwise have consented to pass. The law cannot be vindicated. It does invade judicial powers; because it invaded the principle, which we inherit, that possession is a

prima facie evidence, of the right to property, and that the citizen cannot be deprived of it but under the law of the land, and by the intervention of an impartial jury of his countrymen.

Mr. HOLLAND rejoiced that this case had come before the House. It was a subject of peculiar satisfaction to him, that gentlemen would now see what was the consequence of being put under military law. I well recollect, said Mr. H., that, when the law was passed to prevent Yazoo men from having the right of citizens, it was then stated by some, in opposition to it, that it was improper to put any class of citizens under military law; that, to remove them from possession of the land, when they had titles in their hands, and claimed a trial, by the laws of the country, was contrary to the Constitution. The opponents to the law stated a number of cases, in which it might bear hard on others than the Yazoo claimants. So extreme, however, was the zeal of gentlemen, that they determined to put them all under the Yazoo law, not only the Yazoo claimants but all other. Now, it seems that the ground on which they stood is taken from them; now it is demonstrable that a "little law knowledge" is requisite for legislators. No doubt gentlemen who supported the passage of that law did not intend to entrap any but Yazoo men. It seems it has taken in a worthy citizen. I then thought, and still think, there are Yazoo claimants honest men as well as others. The reason why I voted against that law was, that it was a violation of the rights of the citizen; for it is always against the rights of the citizen to put him under military law. It is now complained that the particular persons on whom it was intended that the law should operate, have escaped it, but that if they had been put under military law, it would have been a gratification to gentlemen. I rejoice that it has now operated on a man who is able to come forward and show that he has been oppressed by that law, and who is able to show that the operation of the law was oppressive. The Executive is not to blame, except for not extending the operation of the law as far as it was intended. The gentleman might have seen also, had he chosen, why the law has not been put into operation in relation to others; they have been compelled, in order to retain their situation, to say that they hold under no claim.

It is true, sir, that the bill, passed in 1807, came from the Senate; yet, I recollect that, so ardent were gentlemen in favor of it, that the appropriation could not be carried into effect, and the Committee of Ways and Means would not bring in a bill until something of this kind was admitted, in the shape of a law, with a particular view to keep the Yazoo claimants from having the right to a trial by jury. When we legislate upon these principles, sir, we shall always get into embarrassments.

Mr. FISK opposed the reference of the subject to the Attorney General, and advocated the rights of the petitioner. He had no idea of taking away property from the petitioner, and then giving it to the corporation of New Orleans. It was giv-

JUNE, 1809.

Barred Claims—Brigadier General's Pay.

H. OF R.

ing him a law suit, at least. He would place the property in *statu quo*, and give the corporation any claim which the United States might have had to the land, and let them and the individual contest it together.

After some further observations from Mr. MACON and Mr. W. ALSTON in favor of the report of the committee, and of Mr. BIBB against it, the resolution for a reference of the subject to the Attorney General was negatived—ayes 27.

TUESDAY, June 20.

On motion of Mr. RANDOLPH,
Resolved, That a committee be appointed, jointly, with a committee to be appointed on the part of the Senate, to have the direction of the money appropriated to purchase books for the use of Congress, pursuant to the "Act making a further appropriation for the support of a Library," passed on the 21st of February, 1806.

Ordered, That Mr. NICHOLAS, Mr. DANA, and Mr. SAY, be appointed a committee, pursuant to the said resolution, on the part of this House.

Mr. BIBB moved that the House do come to the following resolution:

Resolved, That it is expedient to vest in the Corporation of New Orleans whatever right, title, or claim, the United States possess to the batture, situate in front of the suburb of St. Mary's, and adjoining the city of New Orleans.

The resolution was read, and permitted to lie on the table.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act making an appropriation to finish and furnish the Senate Chamber, and for other purposes," to which they desire the concurrence of this House.

The bill to alter the road from Baltimore to Annapolis by Rockhall, was read the third time, and supported by Mr. MONTGOMERY and opposed by Messrs. STANFORD, GOLDSBOROUGH and LIVERMORE, and postponed indefinitely, ayes 65.

SEA-LETTER VESSELS.

Mr. MACON observed that there was known to the laws of the United States, a species of vessels called sea-letter vessels, foreign built, but belonging to this country. They appeared to be a mongrel species of vessel, of which he wished to get rid. Those who wished to encourage American shipbuilding would be in favor of the following motion, for it would go to encourage it:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of authorizing the registering anew of vessels built in the United States, which are owned in whole by citizens of the United States, any disability incurred by such vessel to the contrary notwithstanding, and also into the expediency of forbidding by law sea-letters or any custom house documents being granted to vessels not registered or licensed according to law, or not owned by citizens of the United States within a limited time after the passing of such a law.

The House agreed to consider the motion, ayes 72.

On the suggestion of Mr. MONTGOMERY, the motion was ordered to lie on the table for one day.

BARRED CLAIM.

Mr. JOHNSON made a report on the claim of General Arthur St Clair, for moneys due to him by the United States, stating that the claim is barred by the statute of limitations, and therefore recommending that the prayer of the petition ought not to be granted.

A motion was made by Mr. EPPES to recommend the report, because it rejected the claim merely because within the operation of the statute of limitations, without inquiring into its merits; and because the principle had already been settled in the case of the report on the petition of Hannah Foster, made a few days ago, which was recommitted on the same ground, and a report required on the merits of the case.

After debate, the report was ordered to lie on the table.

BRIGADIER GENERAL'S PAY.

Mr. J. G. JACKSON observed, that by the act passed in 1802, fixing the Military Peace Establishment, among other things, the pay of the Brigadier General was fixed at \$225, which was to be his full and entire compensation; and also allowed "to the commanding officer of each separate post, such additional number of rations as the President of the United States shall from time to time direct, having respect to the special circumstances of each post." Under this section of the act, an opinion had been given by the Attorney General, in pursuance of an application to him, that the Brigadier General, besides his fixed allowance, was entitled to extra allowances. A committee had been appointed at the last session, who had reported facts on this subject, on which report no order had been taken, except that, at a late hour on the last night of the session, a motion was made by a gentleman from Virginia, (Mr. RANDOLPH,) declaratory of the fact, that that allowance was illegal and improper. The ground taken in opposition to it was, that this House could not speak, except through legislative acts, and that it was only in the form of a law that an exposition could be made. It had been declared by gentlemen on almost every side of the House, that they inclined to the belief that the Attorney General's opinion was not in conformity to law. But since that decision had been made by the Attorney General, until it should be reversed by law, Mr. J. said it would continue to be a rule of conduct. He had felt a disposition, ever since the meeting of Congress, to have their attention drawn to this subject; and he had waited in expectation that the gentleman from Virginia (Mr. R.) would have brought forward some such proposition; but he had waited in vain. It was consistent with his sense of propriety that something should be done to correct the proceeding in future. By the act of 1808, two additional Brigadier Generals had been authorized, whose allowance was but \$104 per month, besides their rations, for which, admitting the highest value, the whole compensation could not amount to as much as \$225 dollars per month, the pay of the first Brigadier General. He wished that the

H. OF R.

Brigadier General's Pay.

JUNE, 1809.

allowance of the one should be expressly limited to its standard by law, and that of the other two brought up to it. He, therefore, moved the following resolution :

Resolved, That the Committee of Ways and Means be instructed to bring in a bill declaring that the compensation to the Brigadiers General of the Army of the United States, fixed by the act of Congress, entitled "An act fixing the Military Peace Establishment of the United States," shall be no more than \$225 dollars per month, including all rations and every other species of emoluments heretofore claimed or allowed, except the usual allowance of stationery.

Mr. RANDOLPH said he was very glad to hear it acknowledged that the opinion of the Attorney General upon the act of 1802 was an incorrect and illegal opinion; but he was afraid that this was not the mode to correct an illegal and incorrect act, whether of the Attorney General or of any other officer of the Government of the United States. The Committee of Ways and Means to be instructed to bring in a bill declaring how a law should be construed! That to him was a novelty. The Committee of Ways and Means might bring in a bill declaratory and amendatory of the law; but the introduction of a bill declaring how a law shall be construed, he took to be a novelty, and moreover incommensurate with the extent of the evil. If, in the present case, a manifest departure from the law had taken place with impunity, he wished to know how this proposed law for construing law was to be enforced? Recollect that it has been agreed on all hands (we are told so, at least,) that the conduct of the officers in question has been incorrect and illegal. Now, if it has been incorrect or illegal, that the proper remedy is not a declaratory act, is a self-evident proposition, because there will be no more sanction for securing the observance of the new law than of the old. With respect to the case occurring at the last session, and the motion made by me in relation to it, I think the House will do me the justice to say, that I certainly have pointed their attention to it even during the present session; and it will be recollected that the whole of that business is now, by a resolution of this House, in possession of a committee appointed to investigate the application of public moneys to the purposes for which such moneys have been appropriated; and, unquestionably, it will be the duty of the committee to take cognizance of it. That point was agitated this morning in committee, and it was determined to take notice of that irregular and illegal expenditure of public money, as of any other, and report thereupon. The law itself, Mr. R. said, was perfectly clear, and could not require any amendment, much less an act declaring how it should be construed. To prove this he quoted the law. If a subsequent act had established other brigadier generalships, (if he might use the expression,) and had given them less monthly pay by more than an hundred dollars than to the Brigadiers under the former act, allowing them, however, rations and forage, it placed them also without the limitation of the law in relation to extra allowance of rations and

forage. They were placed, by the very nature of their compensation, on the same footing, rank excepted, as the colonels, majors, &c., under the old law, which, please observe, declared that the Brigadier General should receive a certain gross sum of money in lieu of any other emolument whatever, stationery requisite for the use of his department excepted. To all officers other than the Brigadier appointed under the act of 1802, that regulation of this section applied, which enabled the President of the United States to give to the commanding officer of each separate post "such additional number of rations as he shall from time to time direct, having respect to the special circumstances of each post." The Brigadier Generals lately appointed, having a monthly pay inferior to the Brigadier appointed under the former act, and having, as he had not, allowance for forage and rations, this section of the law, which had been improperly extended to the first Brigadier, Mr. R. said did fairly attach to the Brigadiers subsequently appointed, because they, instead of having a gross sum per month in full, had \$104 in part, and rations and forage also, which the act in 1802 positively denied to the Brigadier first appointed. So that if the Committee of Ways and Means, or any committee, were to bring in a bill declaring how that act should be construed, they would bring in a bill declaring, that because the act of 1802 had been illegally and incorrectly expounded as to the original Brigadier, it should not be legally expounded in relation to the new Brigadiers, but that they should be excluded from the positive benefit of a law made for their express case. Mr. R. said he should, therefore, vote against this resolution—and he thought he might, without arrogance, say that he had demonstrated to the House the inapplicability of the resolution to the case in question, and its inefficiency as to any abuses which now existed, or might hereafter occur, in this department.

Mr. J. G. JACKSON observed that he had not considered it necessary to be as explicit in a resolution as in a bill. He had not said, as ascribed to him, that the conduct of the officer making the allowance was illegal. It was perfectly legal; for, if gentlemen would turn to the act establishing the office of Attorney General, they would find that he was bound to take an oath of office, and, upon the application of any officer of Government, to give his opinion as a rule for their guide. That opinion had been given in the present instance, and in pursuance of it, the allowance had been made. Have I, said Mr. J., said, that the conduct of the Attorney General was illegal and incorrect? I said that the opinion was deemed to be illegal and incorrect. But we are asked by the gentleman, why legislate on the subject? You cannot have forgotten, sir, that the member from Virginia, when he offered the resolution at the last session, spoke of the high regard he had for the officer who had given the incorrect construction of the law. He then said that the having given an erroneous opinion was no disparagement to his talents, for that Homer

JUNE, 1809.

Brigadier General's Pay.

H. OF R.

himself sometimes nodded; that it was merely an error of the judgment, in which the heart was not inculpated. But when laws have been constructed differently from the intention of those who passed them, it is not at all unusual to pass laws giving an explanation of such laws. What would be the effect, the gentleman asks, if this officer were again to violate his duty? There has been no violation of duty; it was a mere error of opinion. But if there was a law expressly declaring that the emoluments of the Brigadier General should not exceed two hundred and twenty-five dollars, the officer could not plead a misconstruction of the law. I ask the gentleman, whether he can possibly wish that this erroneous opinion shall be practised on in future, for the purpose of exclaiming against the officer who is bound to act on the opinion given, so long as it is unreversed? When the Legislature is informed that the officers of the Government expound a law differently from its intention, they usually pass a law explanatory of it—and this is a correct mode of proceeding. In every point of view, I can see no good ground for opposing the resolution, and I had hoped that it would pass unanimously. With the exception of the gentleman who declared that he would oppose it, I hope so still.

Mr. LIVERMORE observed, that if the case in question had been a doubtful point, or one which admitted of a doubt, it might be proper to legislate on it; but he could not conceive that a doubt existed. He did not believe it possible that a law could be made stronger in the English language, and where was the security if a law was passed confirming it, that that law too would not be violated? He did not mean to insinuate that he considered the officers of the Treasury to be corrupt; but he conceived that they had not proceeded with that correctness which ought to characterize officers in that situation. There could have been no necessity for a legal opinion in a case in which there could have been no doubt. The opinion itself was a strange one, whether considered as coming from a professional character, or from a man of common intelligence. On reading the law, he was astonished that the Brigadier General could have been supposed to be entitled to a farthing more than two hundred and twenty-five dollars per month in full. He quoted the law, observing that there was an exception of no other allowance than stationery. According to an old rule of law, that an exception renders a clause stronger, that exception would clinch the meaning. Mr. L. said, it would be impossible to introduce a law more explicit than this. If the Attorney General was to say black was white, were the other officers of Government implicitly to believe it? If he were to say that "two hundred and twenty-five dollars" meant two hundred and twenty-five pounds, would they believe it? Surely not. It was equally impossible that the Brigadier General should have been entitled to rations, forage, or other emolument, when the law said expressly that he should not have them. There ought to be some mode of

deciding the case without passing a law to prevent the officers from doing wrong in future. If, notwithstanding the precedent given, they should continue to make allowance to the officers in question of rations, forage, &c., in his opinion they would be liable to punishment. There was no necessity for legislation on the subject.

Mr. EPES said that the fact was, that the Secretary of War, the Attorney General, and the Comptroller of the Treasury, had all given a construction of the law different from that for which the gentleman from Massachusetts contended; and, although he was far from wishing to disparage either the legal or any other talent of the gentleman from Massachusetts, he should be very much inclined to conceive that either the Secretary of War or the Attorney General was as capable of giving a legal opinion as that gentleman. A law had been passed declaring that the compensation of the Brigadier General should consist of a certain sum. He had no doubt that it was the intention of the Legislature that it should consist of that sum. Such, Mr. E. said, as an individual, he had always believed to be the construction. In the same law was a passage declaring the commanders of separate posts should receive such additional rations as the President shall think proper to grant, having respect to the special circumstances of each post. Under that clause, the law had, as he conceived, been incorrectly construed. As a difference of opinion existed as to the construction of the law, the question was, what course should be pursued? If gentlemen believed that either the Secretary of War, the Comptroller of the Treasury, or the Attorney General, had corruptly acted in the construction they had given, for any such conduct they were liable to a punishment, agreeably to law. But, as he imagined that there was no gentleman in the House who believed, that in giving this opinion they had been actuated by corrupt motives, he could see no mode more regular than to declare by law that the compensation should consist of that sum, and that only. It appeared to him that there could be no objection, in a case of this kind, to give a construction of the law; because it would not at all interfere with the course which gentlemen might hereafter wish to pursue, either with the officer concerned, or in placing it before the public, in any manner.

Mr. NELSON said, if he understood rightly the object of the resolution—that it contemplated the introduction of a bill explanatory of a law of the land—he was opposed to it; because he believed, that, if any gentleman chose to take the trouble to read the present law, he would be with him of opinion that no power of language could make any new law more plain than the old one. The reason why a fixed allowance had been made to the Commander-in-Chief, was, that he would be always exposed to certain expenses to which other officers were not liable; and it was therefore proper that he should have a fixed and adequate compensation. Mr. N. said, he had no doubt that the opinions of all the three officers, concurring in construction, were incorrect; and he presumed

that they had fallen into the error in this way: that the law, in another part of it, said, that every officer commanding at a separate post should be entitled to an additional number of rations. Why? For the same reason that the expenses of the Commander-in-Chief must be greater than other officers; because they have to entertain the officers and visitors at each post. Was it ever heard of before, that a Commander-in-Chief should be sent to command a separate post? How separate; from whom separate; from the main Army? No; because he must be with the main body. If there was an army of an hundred thousand men, and it should be so dispersed that there should only remain with the Commander-in-Chief five hundred men, that body was the main Army, and could not be a separate command. How our officers have fallen into this error, I cannot tell. That the Attorney General, who knows not much of military subjects—that the worthy Comptroller, (who, I am proud to say, would do honor to any country as a man of integrity)—should have erred on this point, is not so surprising; but that my old friend, the Secretary of War, could have fallen into such an error as to suppose that the Commander-in-Chief could be placed at a separate post, is a little extraordinary. How would it be separate? Wherever he is, is the main Army—from thence orders originate. Why we should pass this explanatory law, is, to me, very strange; for, if the former law is not distinct enough, we may go on and pass laws *ad infinitum*, without making them intelligible.

Mr. TALLMADGE said, that no man would more readily than himself adopt a resolution of this sort, if he could deem it at all necessary to obtain the object which the gentleman from Virginia very candidly had explained to the House that he had in view. When he had seen the construction which had been given to the law sanctioned by one of the highest law characters of the United States, he had been almost led to doubt the evidence of his own senses. You, sir, said Mr. T., well remember the circumstances under which that law was passed. For myself, though I should most heartily wish to guard and put checks in such a way that the officers of Government could not misconstrue the law, yet I say that I can hardly conceive words in the English language which could be more full and complete than those of the law fixing the Military Peace Establishment. It does not appear to me that the opinions of all the officers of the Departments were the same as that of the Attorney General; for, as far as I remember, there was a strong ground of objection to this extraordinary claim, amounting almost to rejection; and that the opinion was called for, more to help out the claim, than as the groundwork of proceeding. I utterly reject the idea that the Attorney General is the sole person competent to construe a law. Here is a law, one of the most plain and conclusive, declaring that the Brigadier General shall not receive one farthing more than a fixed compensation; and yet, the officers of the Treasury have allowed the most extraordinary claim, on the authority of the opinion of

the Attorney General! Could we enact a law in more explicit language? We could not. The resolution, however good its object, (and I would accord most sincerely in carrying that object into effect,) would certainly be useless. To pass an explanatory law, would be trifling with the Legislature and with the Government. I am averse to sanctioning the construction given, which would be the effect of passing an explanatory bill. In my present opinion of the resolution, therefore, I am averse to its passage.

Mr. HOLLAND said, he certainly could not conceive that the passage of the resolution, or declaring the meaning of the law, would sanction the decision of the War Department in relation to it.

Mr. J. G. JACKSON asked his friend's leave to interrupt him, and withdrew the resolution, which he said he had proposed under a belief that there would be no objection to it.

FINANCE.

The engrossed bill to amend the act entitled "An act for the support of public credit and for the redemption of the public debt," was read the third time.

MESSRS. PICKMAN, LIVERMORE, and RANDOLPH, opposed the bill.

Mr. LYON.—Mr. Speaker: The bill on your table meets my most hearty disapprobation; for reasons which I will take the liberty, in the most concise manner, to suggest. It is not, sir, altogether because I perceived, on the first glance, that the bill was an attempt to raise money, by loan, for the public service, in a disguised form, thereby to shelter the advocates of the unfortunate, disgraced embargo from the odium of so soon becoming borrowers—a situation their favorite measure has brought them into—after all the boast of an overflowing Treasury, and a superfluous revenue, for the disposal of which a committee of this House was at last December selected. Although, sir, such attempts at deceiving the people, and keeping from their view the true state of the nation, are ever at war with the true principle of Republicanism—if the bill contained nothing more than the mere subterfuge, the deception I speak of, my desire to let everything which relates to that disastrous measure pass into oblivion; my wishes to heal, if possible, what is by some called a breach in the Republican party, created by the gentlemen who now advocate this bill making the embargo a party measure, would have prevailed with me to let the bill pass with my bare negative vote. But, sir, I see a vital stab aimed by that bill at the Sinking Fund; a fund constituted principally from a portion of the national revenue appropriated, and most sacredly pledged by the truly Republican Congress of 1802; pledged, not only to the creditors of the nation, but pledged to the American people as their redemption from a debt which threatened their posterity. This republican act of the organ of the Republican party, just then arrived at the zenith of their power, consummated with the most patriotic views, was received by the nation with extreme applause. At the time, I was not a mem-

JUNE, 1809.

Finances.

H. OF R.

ber of Congress, but I can never forget the satisfaction with which the news was received by myself, and all those with whom I was conversant. I remember, also, reading that the Federalists threw some obstacles in the way of its passage; they prophesied the fate which now awaits that Sinking Fund; they asserted that, regardless of its sanctity, it would, ere long, be broken in upon, under one pretence or other, to defray the current expenses which ought to be provided for in some other manner. This opposition to a measure so salutary in its nature and design, irrevocably pledging a share of the national income to the discharge of the national debt, was among the ruins of the old Federalists, which has swept them out of this House. Little did I think, when reading the debates on this subject in 1802, that a majority of this House in 1809, and that majority calling themselves Republicans, would be found fulfilling the predictions which I then considered as the effusion of spleen and envy. No, sir, I could not then believe that the same men, or their successors in name, flushed with power and proud of the strength of their party, would sacrilegiously destroy so fair a monument of the virtue, the wisdom, and the patriotism of the Republican Congress of 1802. It is contended that the bill does not go the length that I insist it does. Why was the bill couched in jargon—in language so nearly unintelligible, that the most learned gentlemen in this House cannot understand it alike? Was it for any good purpose? It is not likely to be the case; as every amendment offered to this House to make the bill more intelligible, has been rejected by great majorities. It seems we cannot get a letter of this bill altered; we are refused the explanations which we require from the Secretary of the Treasury, who must have drawn the bill or furnished materials. However ignorant I am, I can see the bill goes to enable the Secretary of the Treasury to withhold from the Commissioners of the Sinking Fund the money sacredly promised to be placed in their strong box; and it allows that money to be paid out of the ordinary expenditures of the Government. It goes also to the empowering of the Commissioners to make up the deficiency by borrowing. It is asked, what harm will all this do? I answer, it will destroy the nature of the Sinking Fund; it will make a breach on its inviolability, and nothing can remain but the name. One breach on the purity of the virgin fund, and it loses all its reputation—it becomes *common*! Its virtue, like virtue of another kind, consists in its chastity and inviolate character!—a single act of prostitution will destroy the fair fame; and even the very nature, of this fair daughter of Republican virtue.

The gentleman on my left, (Mr. SHEFFEY,) lawyer-like, very ingeniously argues that, if you had given a note for a sum of money, and a mortgage of a certain property for the security of its due payment, and you do eventually and honorably pay that money, although you borrow the money from another to pay that debt, the mortgagee has no right to complain. All this may be

very well; but there is no similarity between that and the case before us. I will take the liberty to state a case: A man borrows money of another, and beside giving his note, he mortgages the rents of certain lands; in security for the payment, he fixes a strong-box in a safe place, into which the agents to whose management the lands are assigned are directed, through an aperture which will admit of no money going out, to drop the rents to a certain amount. The key is placed by contract between the debtor and his heirs, who are extremely anxious to see their patrimony cleared from this debt, in the hands of certain trustees, who are, at stated times, to open the box and pay the interest, and a portion of the principal. This course is pursued for some time to the mutual satisfaction of both the creditors and the heirs; when the mortgager takes it into his head to get another key made and goes to the sacred box for money to satisfy his ordinary disbursements. Or, suppose he finds means to draw the money which was to be dropped into the box out of the hands of the agents, and then calls out to the trustees, "my credit is good—borrow, if you can, on that credit, to make up the deficiency I have occasioned." In such a case, would the mortgager be justifiable? I say no. Every one would say the creditor was robbed of the benefit of the mortgage, that the pledge was injured, was destroyed. The creditor would have cause of alarm. The heirs would say, their hope of freeing their patrimony from this debt was jeopardized; that the check against squandering for any and every purpose, that which was pledged for the best of purposes, and for that exclusively, was destroyed. I take this, sir, to be the parallel of the case before us; my mind can conceive no difference between the two cases.

Notwithstanding all the opposition I can give to this bill, I believe it will go down, and that by about the old embargo majority. And what are gentlemen to gain by this victory? A loss, a very serious loss. They will lose the fair fame of being the supporters of that goodly fabric, the Sinking Fund; while they gain the name of polluters and destroyers. And for what? the poor temporary popularity of getting through this session without the name of directly authorizing a loan; although, in fact, they will have done it, and that in a way most deserving reprobation. But, sir, the veil that is thrown over this borrowing is too flimsy, not to be seen through by a great share of their partisans at home. The rejection of the motion of the gentleman from Connecticut, (Mr. DANA,) which went to fix the commencement of Commissioners to borrow, at the period when the money appropriated and pledged to the Sinking Fund should be inadequate to the demand upon them, exposes the character of the bill to every man of common discernment, who pays attention to the subject.

I voted for the expense which will bring the nation into debt—all the defensive measures. I am opposed to reducing the Army at present. And, although I did not vote for the embargo, which has cut off the means of paying the ex-

H. OF R.

Finances.

JUNE, 1809.

penses, I am willing to meet the present exigency by authorizing the President to borrow a sum in the usual way. I believe, if we had no extra session, the Government would have got along very well without borrowing until Congress meet again. I believe they may now get on until Fall; yet, on the first intimation of its being necessary, I am ready to give my aid to a loan in the usual way, consistent with good faith—this ought to suffice.

Gentlemen boast of the national credit. I know the present credit in abundance—know its sources—one of them is the good faith which the Federal Government has hitherto preserved; and I beg of gentlemen to continue to preserve it. This bill puts me in mind of the man who, after telling one untruth, takes the liberty to tell another to cover or justify the first, and so goes on, until, by sinking deeper in filth, he gets himself enveloped in difficulties, and surrounded with disgrace.

I wish gentlemen on my left would open their eyes, and, looking across the House they sit in, would see who sits in the seats before them. Those seats were emptied of their tenants by the sedition laws, the alien bill, the land tax, and eight per cent. loans; they are now filled, by Republican blunders, with a new set of Federalists, who are not loaded with the sins of the old. They will not only be careful to avoid the rocks and shoals which their predecessors split and foundered upon, but they will watch and take advantage of any new blunder or misstep Republicans may make. They are more numerous, and have greater opportunities sometimes to present to the people, in the colors they choose, your conduct and your motives. The measures that have been pursued for two years past by the majority, have had a tendency to lessen that unbounded confidence the people placed in those called the heads of the Republican party. Gentlemen ought to calculate that their doings will be canvassed with more scrutiny than ever. As a Republican, and a friend to that cause, let me entreat you to pause before you put another weapon into the hands of your adversaries; a weapon with which they will not fail to annoy you.

This bill is, I know, considered by many who hear me, as a mere trifle, of little moment—mere matter-of-form—tweedle-dum and tweedle-dee. But let me assure them that, in point of principle, it is extremely important. It involves a question of national faith, dear to intelligent Republicans; it will probably be found in the end to be more important than is expected. I will, sir, do my duty, however little I may hope from its performance.

For my endeavors to save the Republican party from the dangers into which they have plunged themselves and the nation, I have been stigmatized. When I assured gentlemen, near two years ago, that their conduct would federalize the Eastern States, I was disbelieved and disregarded; and attempts have been made to represent me as an enemy to republicanism. But my predictions are fulfilled. There is the proof, (pointing to the Federal side of the House.) I will only add, sir,

that the enlightened American people will not long be governed by an empty name. There must be wisdom and virtue joined with the name of Republican, to keep up its currency.

The bill was then passed by yeas and nays, 74 to 51, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, James Cochran, Orchard Cook, James Cox, William Crawford, Henry Crist, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Peter-son Goodwyn, William Helms, James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, William Kennedy, John Love, Aaron Lyle, Robert Marion, Samuel McKee, Alexander McKim, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Lemuel Sawyer, Benjamin Say, Daniel Sheffey, John Smilie, George Smith, Henry Southard, John Taylor, John Thompson, Uri Tracy, George M. Troup, Archibald Van Horn, Robert Weakley, Robert Whitehill, and Robert Witherspoon—74.

NAYS—William Baylies, Daniel Blaisdell, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Howell Cobb, Samuel W. Dana, John Davenport, jun., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Richard Jackson, Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jun., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Nathaniel Macon, Vincent Matthews, Archibald McBride, Jonathan O. Mosely, Joseph Pearson, Benjamin Pickman, junior, Timothy Pitkin, junior, Josiah Quincy, John Randolph, Thomas Sammons, Samuel Smith, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson—51.

The title of the said bill was read: When a motion was made by Mr. DANA to amend the same, by adding to the end thereof the following words: "and thereby to make provision for borrowing money." And the question being taken upon the said amendment, it was determined in the negative—yeas 37, nays 83, as follows:

YEAS—William Baylies, Daniel Blaisdell, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Samuel W. Dana, John Davenport, jun., William Ely, James Emott, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Richard Jackson, Herman Knickerbacker, Joseph Lewis, junior, Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Archibald McBride, Jonathan O. Mosely, Joseph Pearson, Timothy Pitkin, jun., John Stanley, William Stedman, James Stephen-

JUNE, 1809.

Massachusetts Contested Election.

H. OF R.

son, Lewis B. Sturges, Jacob Swoope, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

WAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Howell Cobb, James Cochran, Orchard Cook, James Cox, William Crawford, Henry Crist, Richard Cutts, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Peterson Goodwyn, Daniel Heister, William Helms, James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, Walter Jones, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Robert Marion, Samuel McKee, Alexander McKim, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newton, Wilson C. Nicholas, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erasmus Root, John Ross, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, Benjamin Say, Daniel Sheffey, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Taylor, John Thompson, Uri Tracy, George M. Troup, Archibald Van Horn, Robert Weakley, Robert Whitehill, Ezekiel Whitman, Richard Winn, and Robert Witherspoon.

Resolved, That the title be, "An act supplementary to the act, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt.'"

The House resolved itself into a Committee of the Whole, on the bill from the Senate, to amend the non-intercourse act, but after remaining a short time in session, the Committee rose and reported progress, and the House adjourned.

WEDNESDAY, June 21.

A message from the Senate informed the House that the Senate have concurred in the resolution sent from the House, for the appointment of a joint committee to have the application of the money appropriated by the "Act making a further appropriation for the support of a Library;" and have appointed Mr. THRUSTON, Mr. GILES, and Mr. GREGG, a committee on their part.

CONTESTED ELECTION.

Mr. FINDLEY, from the Committee of Elections, to whom was recommitted, on the thirteenth instant, their report on the petition of Charles Turner, junior, and petitions from sundry inhabitants of the District of Plymouth, in the State of Massachusetts, contesting the election of WILLIAM BAYLIES, returned to serve as one of the members of this House for the said State, made an amendatory report thereon.

The report repeats the former report in regard to the facts of the case, and adds the following:

That Charles Turner, of Scituate, had for a long time been known throughout the said district by the several descriptions of Colonel Charles Turner, Charles Turner, Esq., and Charles Turner, Junior, Esq.; that

there was not in said district any other Charles Turner entitled to the addition of esquire; and that for many years there had not been any Charles Turner in said district older than Charles Turner, of Scituate, although he had continued to add junior to his signature since the removal of his father into the District of Maine, several years ago.

In support of these facts stated by the petitioner, Charles Turner, Junior, who claims a seat in this House, produced a law of Massachusetts, passed June 27, 1794, and another law passed March 10, 1802, prescribing the time, place, and manner of electing Representatives to Congress; in both of which laws it is enacted and required that the persons voted for should be inhabitants of the district, and no instance of any practice to the contrary of these laws has been produced to the committee. He also produced one of the precepts issued by Lieutenant Governor Lincoln for calling the meeting in Plymouth district, on the 19th day of January last, in which precept the Lieutenant Governor had inserted the law. Also, an attested copy of the schedule of the votes returned by the selectmen of the several towns in Plymouth district, in November last, by which it appears that the statement made by the petitioners as to the number of the votes, and in what manner they were returned, is correct; and, in support of the preceding statements and allegations, he produced depositions of Augustus Clapp, who testifies that he has kept the post office in Scituate for the last six years, and that he had examined more than seventy letters received at that office, which, as appeared by the post mark, came from various towns in and out of Plymouth district, having all the various directions of Colonel Charles Turner, Jr. Esq., Colonel Charles Turner, Esq., Charles Turner, Charles Turner, Jr. Esq., Charles Turner, Esq., and Mr. Charles Turner; that he had sent or delivered them to Colonel Turner, of Scituate, not doubting that they were intended for him; that he had examined three letters from the Honorable Ephraim Spooner, one of the Council, directed to Charles Turner, Jr. Esq., and Charles Turner, Esq.

[The report here embodies a great mass of testimony, tending to show that the petitioner was familiarly known and addressed in his district by the name and addition of Charles Turner, Junior, and also without such an addition; and that the vote given, both with and without it, were equally intended for him.]

The testimony is certified to have been taken before Nathan Willis, Esq., who appears by the certificate of the Governor, and of the Secretary of the Commonwealth of Massachusetts, to be a justice of the peace, and an associate justice of the court of sessions within and for the county of Plymouth in said State. It also appears that the said Willis, at the request of the said Turner, issued citations, dated 25th of March last, to William Baylies, Esq., the sitting member, requiring him to be present (if he saw cause) by himself or his agent duly authorized, when and where the testimony of the witnesses was to be taken respecting the election which the claiming candidate proposed to contest; in which citations the names of the persons to be examined, and the times and places where the examination was to take place, were inserted, allowing a competent length of time to be prepared.

The committee admitted the testimony above recited to have been correctly taken, notwithstanding the sitting member declined being present himself, or by his agent, he having been duly notified.

The aforesaid depositions are accompanied with of-

H. OF R.

American Manufactures.

JUNE, 1809.

ficial certificates of the decisions of the Senate of Massachusetts, in two cases, supposed by the claiming candidate to be similar to his case, and made under similar Constitutional provisions.

The sitting member had also before the committee a certified return of the election held on the first Monday of November last, agreeing with the certificate accompanying the petitions, and likewise a certificate or schedule of the votes returned on the 19th day of January last, in which schedule it appears that the sitting member had 2,168, (being a majority of the whole number,) and the claiming candidate had 1,812 votes. He also exhibited the credentials of William Baylies, having been appointed and sworn into office as a justice of the peace for the county of Plymouth, and of his having been admitted an attorney by the Supreme Judicial Court, in neither of which is "junior." These are accompanied with a certified statement of the votes given in the second middle district of Massachusetts, in the year 1794, which he suggests to be similar to the case now before the committee.

The committee gave deliberate attention to the allegations and arguments of both parties, and received from the sitting member in writing his reasons for requesting the decision to be postponed till the next session of Congress. They received from the claiming candidate his observations on the reasons offered by the sitting member. And the sitting member also protested against the committee going into the investigation of the evidence adduced by the petitioner. Having diligently attended to the allegations and arguments of both parties, and carefully examined the testimony produced, on mature deliberation, the committee submit the following resolutions to the decision of the House:

"Resolved, That the election held in Plymouth district in November last was legal and proper.

"Resolved, That William Baylies is not entitled to a seat in this House.

"Resolved, That Charles Turner, Junior, is entitled to a seat in this House."

The report was committed to the Committee of the Whole on Saturday next.

AMERICAN MANUFACTURES.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to whom were referred so much of the Message of the President of the United States, as relates to a revision of our commercial laws, for the purpose of protecting and fostering the manufactures of the United States, and the several memorials and petitions of the manufacturers of hats and salt, made a report thereon: which was read as follows:

The Committee of Commerce and Manufactures, to whom was referred so much of the Message of the President of the United States as relates to the revision of our commercial laws, for the purpose of protecting and fostering the manufactures of the United States, and also the petitions and memorials of sundry manufacturers of hats, of cotton goods, of hemp into linen, of shot, of woollen cloths, and of salt, respectfully submit the following report:

The committee are fully impressed with a conviction of the importance, difficulty, and delicacy, of the subject submitted. It is a mine which even the industry and laborious researches of philosophers cannot exhaust. The committee are apprized, that on this subject men of great science and experience have supported, and do

still support, diversity of opinions. With such impressions, they cannot approach it without circumspection. On a review of the reports made on the policy of fostering and protecting our manufactures, the committee find that the plan therein recommended and pursued has received the support of Congress; and likewise the countenance of the nation, if silence on, and long acquiescence in that plan, can authorize them to infer it. In giving to our manufactures the support necessary to withstand foreign competition, skill, and capital, the committee have on all occasions endeavored to avoid the danger of fastening on the community oppressive monopolies. For a manifestation of the solicitude which they have at all times felt, and the caution which has always presided over their deliberations on this interesting subject, they beg leave to refer to the following reports, which they solicit may be taken as parts of the present:

Report on the memorial and petitions of sundry manufacturers of gunpowder, &c.; 10th February, 1802. 1st vol. of Reports page 217.

Report on the petition of sundry manufacturers of paper, &c.; 18th February, 1802, Ibid. page 219.

Report on the petition of sundry manufacturers of paper, &c.; 8th March 1802, page 226.

Report on the petition and memorials of sundry calico printers and dyers, &c.; 25th January, 1804, page 394.

Report on the petition of the president and directors of the New York Dutchess County Slate Companies 15th of November, 1804, p. 491.

Report, on the memorial and petition of the Philadelphia Typographical Society; 22d January, 1805, page 253.

Report on the petitions and memorials of Paul and Joseph W. Revere, and sundry coppersmiths; 21st January, 1808, 2d vol. page 121.

The like spirit which dictated those reports maintains, without any diminution, its influence over the committee, and represses every disposition to depart from restraints, the observance of which becomes indispensable, if the public good be the sole object in view.

The shortness of the present session, and the want of materials, preclude the committee from giving this subject a full investigation. Though the committee have to regret that they are prevented from going into a minute discussion of the advantage that would result from a judicious encouragement of manufactures, yet they cannot refrain from expressing an opinion that additional duties at this time may be laid with advantage on the importation of certain articles. It must be obvious to every person, on the slightest attention, that the citizens of the United States possess sufficient ingenuity and skill to make up all the articles of wearing apparel and millinery that may be wanting for use. It is no less clear that shot, over and above our own consumption, can be supplied, and that other manufactures in which lead is the article of chief value, have progressed so rapidly as to deserve the fostering care of Government. The importation of cotton manufactures from the Cape of Good Hope interferes not only with our own cotton manufactures, but also comes into competition with fabrics imported from Europe, made of the cotton of the United States. Manufactories are in operation for supplying, and preparations are in great forwardness for increasing the supply of coarse cotton manufactures. If some encouragement be given to establishments of this description, the probability is, that a quantity of these manufactures, equal to the de-

JUNE, 1809.

American Manufactures.

H. OF R.

mand, may be supplied. Bedticking, of a quality superior to that which is imported, can be had in abundance.

The use of salt as a necessary of life cannot be dispensed with. To keep in the market a quantity commensurate to the consumption of the nation is certainly an object of moment. In times of peace importations of this article are abundant, and the price low; but should the United States at any time be forced into war by a concurrence of inauspicious events—and they have no power to prevent it—the scarcity consequent on such a state of things would greatly increase the price of this article, and the pressure would of course be sensibly and severely felt by that portion of the community least capable of bearing it. The scarcity and high price of salt during the American war, produced no little distress. The apprehension lately entertained, that a deficiency in the necessary supply of this article would be the consequence of an interdiction of commerce with the belligerent nations of Europe and their dependencies, gave rise to some objections, not easily removed, against the adoption of that measure. To prevent effectually a want of salt, on the occurrence of any event, is certainly an object deserving the serious attention of Congress. Assurances are made with confidence that a supply of this article can be furnished by our own manufactories, equal to the demand, if encouragement be given by a moderate duty on imported salt. A nation erects a solid basis for the support and maintenance of its independence and prosperity, whose policy is to draw from its native sources all articles of the first necessity. As the encouragement sought can be given, it is respectfully submitted to the consideration of the House, whether the manufacture of salt is not, in a national point of view, an object of primary importance, and highly deserving its patronage.

The committee, with great deference, submit the following resolutions:

Resolved, That additional duties ought to be laid on the following articles imported into the United States, viz :

On ready made clothing and millinery, two and one-half per cent. ad valorem.

On cotton manufactures from beyond the Cape of Good Hope, on bedticking and on corduroys, and fustians, two and one-half per centum ad valorem—and on shot and other manufactures in which lead is the article of chief value, one-half cent per pound.

Resolved, That a duty of eight cents per bushel on imported salt, would give encouragement to the manufacture of that article in the United States.

A motion was made to refer the report to a Committee of the Whole.

Mr. SHEFFEY wished to move to postpone it indefinitely; but the motion for commitment being first made, the question on it was first put.

The motion for commitment was opposed by Messrs. SHEFFEY, VAN HORN, ROSS, and MACON, on the ground that it was useless in name to pay attention to a subject which in fact could not be considered at this late period of the present session; that a call having been made on the Secretary of the Treasury for information as to manufactures, it would be improper to act partially on the subject till it could be put in a proper train to be acted on generally; that it was a question which admitted of much doubt and probably would excite much debate, how far it was proper to force any part of the capital of the country from its

natural channel into an artificial one; that the tax proposed to be laid on salt, was objectionable and obnoxious to the constituents of most gentlemen in the House; being so, it could not be expected that it would now be decided on.

The motion was supported by Messrs. NEWTON, McKIM, SOUTHARD, DANA, BOYD, and PICKMAN, on the ground that it was the ordinary course of legislation to refer reports to a Committee of the Whole, except they were so objectionable on the first blush as to be wholly unworthy of consideration; and that, whatever objections gentlemen might have to any particular part of the report, they were not committed to vote for it by referring it; that, even were the report not to be acted on during the session, the House might refuse to take it up when called for, and a reference of the subject would be more respectful as well to the numerous petitioners for legislative aid in manufactures, as to the committee that made the report.

Mr. STANFORD called for a division of the question, so as to take it on a reference of the resolutions separately, being in favor of referring the first and against the last.

Mr. RANDOLPH renewed the motion indefinitely to postpone the report.

The SPEAKER decided it to be out of order, the motion for commitment, first made, having preference.

Mr. RANDOLPH appealed from the decision of the Speaker, which was confirmed by the House, 63 to 31.

After further debate between Messrs. GOLDSBOROUGH, SOUTHARD, RHEA, SMILIE, and HOLLAND, the motion for commitment of the first resolution was carried by yeas and nays, 77 to 41, and made the order of the day for the first Monday in August next, 57 to 52. The yeas and nays are as follows :

YEAS—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, James Cox, William Crawford, Richard Cutts, Samuel W. Dana, John Dawson, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jun., Peterson Goodwyn, Thomas R. Gold, Nathaniel A. Haven, Daniel Heister, William Helms, James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard Jackson, Walter Jones, Thomas Kenan, John Love, Matthew Lyon, Aaron Lyle, Robert Marion, Samuel McKee, Alexander McKim, William Milnor, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Benjamin Pickman, junior, Timothy Pitkin, junior, John Porter, Peter B. Porter, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, Benjamin Say, Samuel Shaw, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, John Taylor, John Thompson, Uri Tracy, George M. Troup, Robert Weakley, Laban Wheaton, Robert Whitehill, Ezekiel Whitman, and Richard Winn.

NAYS—William W. Bibb, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Matthew

H. OF R.

Non-Intercourse.

JUNE, 1809.

Clay, Howell Cobb, James Cochran, John Davenport, jr., William Ely, James Emott, Charles Goldsborough, William Hale, Jonathan H. Hubbard, Robert Jenkins, William Kennedy, Herman Knickerbacker, Joseph Lewis, jun., Edward St. Loe Livermore, Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBride, Pleasant M. Miller, John Nicholson, Joseph Pearson, John Randolph, John Rea of Pennsylvania, John Ross, Thomas Sammons, Daniel Sheffey, Richard Stanford, John Stanley, William Stedman, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Archibald Van Horn, James Wilson, and Robert Witherspoon.

The question was then stated from the Chair, that the second member of the said report, consisting of so much of the same as is contained within the second resolution before recited, be committed to the same Committee of the whole House.

A question of order was raised by Mr. RANDOLPH, whether it was in order to put the said question?

Mr. SPEAKER decided that, in his opinion, it was in order.

From which decision of the Chair an appeal was made to the House by Mr. RANDOLPH, and the said appeal being seconded, the question was stated, "Is the decision of the Chair correct?" When, a motion was made by Mr. PITKIN to reconsider the vote last taken: Whereupon, Mr. RANDOLPH withdrew his question of order and appeal.

The question was then taken upon reconsidering the said last vote, and determined in the negative.

Mr. RANDOLPH then renewed his question of order, and his appeal from the decision of the Chair. And, on the question, "Is the said decision of the Chair correct?" it was resolved in the affirmative.

The question to commit the said second member, consisting of the second of the said recited resolutions, to the Committee of the whole House, was then taken, and determined in the negative—yeas 32, nays 85, as follows:

YEAS—Ezekiel Bacon, Orchard Cook, Henry Crist, Richard Cutts, Samuel W. Dana, Joseph Desha, Jonathan Fisk, Gideon Gardner, William Helms, James Holland, Benjamin Howard, Jonathan H. Hubbard, Richard Jackson, Richard M. Johnson, Robert Marion, Samuel McKee, Alexander McKim, Gurdon S. Mumford, Thomas Newton, Benjamin Pickman, jun., Timothy Pitkin, jun., John Porter, Josiah Quincy, Ebenezer Sage, Lemuel Sawyer, Lewis B. Sturges, Samuel Taggart, John Taylor, Uri Tracy, Killian K. Van Rensselaer, Laban Wheaton, and Ezekiel Whitman.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, Burwell Bassett, William W. Bibb, Daniel Blaisdell, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John C. Chamberlain, William Chamberlain, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Howell Cobb, James Cochran, James Cox, William Crawford, John Davenport, jun., William Ely, James Emott, John W. Epes, William Findley, Meshack Franklin, Barzillai Gannett, Thomas

Gholson, jun., Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jacob Hufty, John G. Jackson, Robert Jenkins, William Kennedy, Herman Knickerbacker, Joseph Lewis, jr., Robert Le Roy Livingston, Aaron Lyle, Nathaniel Macon, Vincent Matthews, Archibald McBride, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Wilson C. Nicholas, John Nicholson, John Pearson, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, John Ross, Benjamin Say, Samuel Shaw, Daniel Sheffey, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, William Stedman, James Stephenson, Jacob Swoope, Benjamin Tallmadge, John Thompson, George M. Troup, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Robert Weakley, Robert Whitehill, James Wilson, Richard Winn, and Robert Witherspoon.

NON-INTERCOURSE.

On motion of Mr. J. G. JACKSON the House resolved itself into a Committee of the Whole—yeas 80—on the bill from the Senate to revive and amend the non-intercourse act, &c.

Mr. J. G. JACKSON observed that doubts existed with some gentlemen whether the third section of the act about to be re-enacted by this act did not virtually prohibit the admission of armed vessels. As this was not the intention of the committee who reported it, and he was desirous to make it so explicit that there could be no doubt on that head, he moved an amendment to the proviso, with a view to render the intention more clear.

Mr. GOLD said, that the bill reported by the Committee of Foreign Relations, now under consideration, proposed the restoration of the rights of hospitality to France in the admission of her armed vessels into our harbors. The provision of last session, interdicting the entrance into the waters and harbors of the United States to that nation (said he) is left to expire with the present session. This course, sir, I cannot reconcile with justice and consistency. For that cause, sir, did you by a deliberate act of last session exclude French armed ships from your harbors? Does not the same reason continue down to this hour unabated? Has the Emperor of that nation checked his career of injustice against us? Has he ceased to violate and trample under foot everything that is sacred in treaties? Permit me, sir, to call on the advocates of the bill to reconcile the admission of French armed vessels at this session with the measure of exclusion at the last? It was, sir, at the last session resolved by the advocates of the present measure, that the course then adopted, in interdicting our waters to the vessels of the belligerents, was resistance to foreign injustice; and hence to withhold such interdiction was submission. The measure was pressed upon the country in all the fervid strains of eloquence.

Without admitting the definitions of resistance and submission then adopted, or the application of the terms, I put it home to the great leaders at

JUNE, 1809.

Non-Intercourse.

H. OF R.

that eventful period, upon the principle of consistency. I ask what has France done that we should now change our attitude of resistance; for what shall we now submit and kiss the rod? I pray gentlemen not to withhold their reasons, but kindly to impart them to the House. Would you, sir, avoid all imputations of partiality, of not carrying an even hand between the belligerents, give to the country the reasons of your conduct; mark your lines plain, that they may not be mistaken. The principle of exclusion of last session was applied to both France and Great Britain; equality was introduced. Hence, sir, it will be seen, that the insulated case of the Chesapeake was not the ground of that provision. If any one should doubt on this point, I invite a recurrence to the resolution expressive of the sense of the House of last session, as preparatory to the law, where he will find a broad application of the principle of exclusion to "all the belligerents 'having in force orders or decrees violating the 'lawful commerce of the United States, as a 'neutral nation.'—(Journal of the House of Representatives, page 46.)

While on this subject, permit me, sir, to notice the position laid down in this House, that "the 'attack upon the Chesapeake was, intrinsically, 'cause of war."

If there be any gentleman of the Committee who continues to entertain that opinion, I will refer him to the usages of nations on the subject. The rule will be found in both Puffendorf and Rutherford, that "an individual member of a nation cannot by his act commit or render his nation liable without the assent to, or adoption of, such act by his nation." Here, as soon as the act of Admiral Berkeley was known in England, it was explicitly disavowed. Will it be pretended that the case was proper for a surrender of the individual? The Executive of the United States has not so thought; no demand has been made.

It was not the crime of England, but her misfortune, to have had an individual commit her peace and jeopardize her welfare by an unauthorized act. What has happened to Great Britain may befall America; and we shall never submit to the position, that the nation is committed by the act of a member which it disavows.

After such disavowal and promise of reparation, there could remain no danger of the repetition of the injury; no measure of precaution against the repetition could be necessary, and the continuance of the exclusion of British armed ships, by proclamation, was, sir, in my apprehension, unwarranted by the usages of nations. On the disavowal and promise of reparation, the relations of amity between the two countries ought to have been restored, and so continued until an experiment at negotiation for redress could be made; upon the issue of which, ulterior measures might be adopted.

What losses, what sacrifices this ill-fated continuance of the late President's proclamation has brought on this country is beyond my power to measure.

The exclusion of British and admission of

French armed ships in our harbors at the same time, was justly odious; and whether so intended or not, could not fail to interpose an insuperable barrier to all negotiation.

But this odious distinction being done away by the non-intercourse act, so termed, a satisfactory atonement was offered for the attack on the Chesapeake, and negotiation upon other points of difference promised.

The Executive, reposing himself on these assurances, has restored the relations of amity between the two countries. Here, sir, the course was fair for opening our ports to British vessels; and the line of conduct towards France is equally plain; every principle of justice and honor combine in requiring at our hands a perseverance in the course adopted at last session, in withholding the rights of hospitality from a nation which has, for years, not only violated those rights in relation to this country, but showed an utter disregard to all the various duties imposed on friendly nations.

The task of retracing and comparing the relative conduct of foreign nations towards this country is truly unpleasant, but the proposition before the Committee imposed this duty upon me, and while I have briefly adverted to the catalogue of our sufferings from France, I disclaim all foreign predilections, and, be my country's enemy whoever it may be, am an American.

In what situation will the bill under consideration place America in relation to France? A non-intercourse of trade and an intercourse of hospitality at the same time—an anomaly in the usages of nations. Surely this age is fruitful in experiments, and the new world is henceforth destined to give lessons of political conduct to the old.

Mr. Love said that the few observations which he intended to offer should be confined to a reply to the gentleman from New York, (Mr. GOLD,) who had just sat down; and could he believe, as that gentleman did, that the proposed amendment did imply submission to the edicts of France, he certainly should be equally opposed to it. The amendment, he said, was merely calculated to give effect to that part of the bill which provided for the removal of the interdiction of the armed vessels of France and England from our waters; a provision, which, while it was exercised alike towards both belligerents, neither could complain of, nor could either view it as a condescension, so long as the other enjoyed the privilege to a similar extent. The removal of the interdiction as to both nations left both in the same relative situation towards each other as the continuance of it would. All Great Britain had required was to be placed in a state of equality with France as it respected her armed vessels. The act of the last Congress which effected this purpose (said Mr. L.) is by that Power made the ground of an overture, which has been accepted by our Government as honorable and satisfactory.

Had the terms of that overture required that British armed vessels should receive admission into our waters, in exclusion of those of France,

as some have mistakenly supposed, the question would have assumed a different aspect, but that was not the case, nor would the law of the last session have warranted such admission.

But the gentleman has said, that the outrages of France are of a more inexcusable nature than those of England; that with England we have no treaty, and with France we have one which has been infringed. I had presumed that, at this time, no man could be found in the National Legislature of this country, who would attempt to palliate or excuse the conduct of either of the belligerents towards us. Indeed, so little regard was in every respect paid to treaties by those nations, that nothing can be said of the good or bad faith of either of them. It is certainly no difficult matter to enumerate various infractions by both nations. Great Britain has infringed the first of the permanent articles of the Treaty of 1794, by the attack on the Chesapeake, for that article, I believe, stipulates that there shall be an inviolable peace between the two nations. It is said, indeed, that ample reparation was tendered, according to the principles of the law of nations, by the disavowal of the outrage, which the gentleman has said was afterwards no longer a question of public injury, but then became merely personal to the individual committing the outrage, and for this the law of nations had been referred to. The reference to that law, sir, is correct; and if the gentleman had been equally correct in his premises, there would have been no disagreement between us. Had Great Britain, when she made the disavowal of the act, have promptly surrendered the culprit to the justice of our laws, and to punishment for the violation of them within our limits, she would have done what the law of nations enjoins, and our Government must have been satisfied. There is no subject of political interest which, I believe, has ever been more misrepresented than that relative to the affair of the Chesapeake. It was but a few days ago, a gentleman from Virginia, (Mr. RANDOLPH,) if I understood him right, declared on this floor, that the same overtures which had now been accepted were made to Mr. Monroe in London, but he was not permitted to accede to them. Sir, I should be glad to be informed in what part of the correspondence, public or private, of an official or epistolary kind only, this fact is exhibited. Compare the reparation agreed to be made, with anything which has before been offered us, and the assertion stands completely refuted.

The affair is now adjusted, I believe, sir, to the satisfaction of all parties, and of every man in the nation; and although it might be doubted whether a President of the United States has, of himself, without the concurrence of the other branch of the treaty-making power, the right to accept of reparation for an act of hostility of so flagrant a nature as that we have been speaking of, yet I shall at all time be ready to approbate the terms on which the adjustment has been made.

It is said by the gentleman from New York, that all our differences are in a train of accom-

modation with England, and the recent overtures ought to place her on superior ground to France. Her recent overtures have placed her on superior ground, by opening commercial intercourse with her, and continuing the inhibition as to France. That is all she did or could require of us. To do more would, in my opinion, be a voluntary act of hostility towards France; and one which, if we are disposed to hold the scale of justice with an equal hand towards both nations, we ought to avoid. What has France done since the passage of the non-intercourse law, which would make such a distinction proper, or would make this exclusion of her armed vessels, and the admission of her enemy's, the appropriate remedy? When the measure of exclusion, as it respected England alone, was resorted to, it was a remedy which was appropriate to the injury. She had attacked our vessels in our own waters, and a series of outrages were consummated by the capture of the Chesapeake.

But the policy of the interdiction of the last Congress, stands on different principles. The repeated injuries our commerce has sustained from both nations require that both should be put on the same ground. It was done, and although the position they both stand in will be changed by this bill, yet they will alike remain on a ground of equality. So far, sir, as respects any other subject than those negotiated on at this place lately, policy would certainly dictate that we should at this time, maintain the most guarded position. I do not mean here to express a doubt of the sincerity of the British Ministry in the overture they have made for the revocation of their orders of November, 1807. I believe at least that the overture was made with pure good faith on the part of her Minister resident in the United States. But, sir, I confess there is something in the orders of April, 1809, which produce an involuntary distrust, that the negotiation made here is not to be fulfilled in its spirit and meaning. The new orders are said to be produced by the altered state of Europe. What is this alteration, and when was it made? If at all, it has been since the overture authorized by the late mission to this country, and if that be the principle on which this new order rests, we may indeed be told, that the negotiation made here affords us no security for the abrogation of the principle of the orders of November, 1807. I confess I find none in the assurance that the new orders are not connected with the negotiation made here. The Minister has probably used the words of his instructions, and for my part I had rather it had been said that the new orders were connected with, and their continuance dependent on the negotiation pending here. An assurance of this sort, would to my mind have been more satisfactory. But sir, I have unwillingly said anything in reply to the gentleman on this topic; it is a delicate one, and certainly the less we shall say at present about it, the better. To me it would have been much more agreeable to have said nothing on it, and if possible to have refrained from acting at this moment; it would to my apprehension have

JUNE, 1809.

Non-Intercourse.

H. OF R.

been more fortunate to us, had the meeting of this Congress have been fixed to such a period as would have enabled us to act on the real instead of the conjectural state of our relations with France and England; and indeed I conceive the less we do, until we know our actual state, the better. The provisions of the present bill, I only prefer to those of a contrary description contained in a bill reported some time ago, by the honorable Chairman of the Committee of Foreign Intercourse, because these may possibly produce some advantage in the sale of our products; not much, and there is certainly little choice in the measures. The only very important feature in either, being the equal justice which is held out to both the belligerents. Thus far they each pursue the policy our Government has never ceased to adhere to, and therefore I am willing, if compelled at this moment to act at all, to give the present proposition my support.

Mr. LIVERMORE said he would not admonish the House that he would not dilate on the subject; for if he did he feared he should contradict his assertion. He would say a few words why he thought the amendment ought not to be adopted, though he confessed he did not feel very anxious about it one way or the other. He did not feel himself responsible for the question. It is, however, said he, a matter of considerable delicacy in all its bearings. There is a negotiation going on between this country and Great Britain. It was supposed, at a certain period not long past, that we were on the eve of a war with Great Britain, and indeed with France also. As this business is now considered as being with the Executive, and in a great measure confided to him, I certainly would not do anything to interfere with what may be the transactions between the two Governments, or interrupt the harmony now existing. I will briefly state a history of this business as it strikes my mind. I will not however go into all the confused contradictory assertions, speeches, and decisions, made within these walls during the last session, but simply take up this famous non-intercourse law as to what it was intended to effect. It was said, by the Committee of Foreign Relations, that we had suffered great injuries from both nations. No doubt this was correct. An abstract proposition was then offered, Can we submit to the orders and decrees? No, was the answer. What then? Gentlemen called upon us for a substitute for the embargo. We said that there was none necessary in our opinion but to repeal it. It appeared to be thought necessary, however, that something should be done; and, after great confusion, this non-intercourse bill was brought forward, to be sure in a strange kind of a way, not by those gentlemen who were ultimately the majority on its passage, but by those who wanted letters of marque and reprisal, which the House would not grant. This bill was not agreed on, which speaks for itself. It was thought to be a hostile measure, and intended as such by the declaration made at the time. But it was contemplated that probably one of those nations might recede from its unlawful ground; and in

consequence of this belief, a new section was enacted authorizing the President of the United States in case Great Britain or France should so revoke or modify their edicts as to render the commerce of the United States sufficiently safe, to declare the same by proclamation. That hostile deed was then to be done away, according to the understanding of every man. The thing was done by Great Britain. Was it intended to be done away as to both, because one revoked its edicts? No gentleman with any kind of consistency advance that this was the understanding of it. [Mr. EFES asked of Mr. L. whether he had understood him to say that the President was authorized to do away the other provisions of the non-intercourse law, as well as to renew the commercial intercourse.] I believed so, said Mr. LIVERMORE, and I believe such was the opinion of a majority, if not of three-fourths of the nation; for I never heard, till I came here, a different construction of this act. If it be possible to conceive that interdicting ships is a measure of hostility, which certainly I understood to be intended, it must have been the understanding of the British Minister that the whole of the hostile measures should be done away in relation to Great Britain; and for us to say, although trade is to be renewed, yet that these hostile measures are to be continued, seems to me to be absurd. But I wish gentlemen to consider whether there are not two parties to this state of things, Great Britain and the United States. Gentlemen may satisfy their own consciences that they have kept within the letter of the law, but I think they cannot satisfy the country of it. This exclusion of armed ships, as I before said, was viewed as a hostile measure to meet the hostile measures of both belligerents, and to cease when either of those nations ceased their hostility. Now I understand that it has ceased as to Great Britain. In the first place, though different ideas are entertained of the promises of a foreign Minister, and though, when a Minister makes a promise it is only satisfactory when you have security for its performance, it is very different from a case in which a public Minister and functionary makes a promise absolute which does not depend on any contingencies of ratification; it is satisfactory and has been so viewed by the President of the United States. The Orders in Council being withdrawn, hostility ceases, and the two countries are considered as much in amity as though there had been no hostility between them. Has Great Britain made this contract on stipulation offered? What is it natural to suppose that she would expect on our part? Certainly a continuation of hostility towards that other country, till that other country does what she did by rescinding her decrees. For, as the existence of those very decrees of France was injurious to Great Britain, and was the cause of the Orders in Council, which was considered as the cause of difference, what have they a right to expect from us? Why, that precisely the same conduct as we adopted towards both nations should continue as to the other. If therefore it was a part of the agreement that hostility should cease in

relation to Great Britain, according to every rule of construction and as to common honesty, the hostility towards the other nation ought to be continued.

The gentleman from Virginia (Mr LOVE) appears to be very anxious lest we should put something in this bill to offend sister France; and this disposition is the cause of all our difficulties. The gentleman asks what France has ever done? [Mr. LOVE said the gentleman stated his observations incorrectly.] At the last session, said Mr. LIVERMORE, it was acknowledged—though to be sure it was thought a mighty thing to acknowledge, that France could not be hostile to us; that the two nations were as much alike in their conduct as one egg is like another. There was an admission that they were equally hostile. Is any gentleman now going to contend that there has been no hostile act done by France towards this country? If the Orders in Council were hostile, was not the act also hostile which caused the issuing of them in retaliation of it? It was so considered. I say that the decree of Berlin itself considered seriously was a hostile act, and we have no right to conceive it in a contrary view; and we now feel its effects, and have had a declaration from France, too, that she knew no distinction between us and any other nation, our treaty with her to the contrary notwithstanding. Further, that the decrees of Milan provided that every vessel even spoken to by a British cruiser was “denationalized” and should be condemned. Now I say that these are sufficient acts of hostility to justify the interdiction and inhibition of intercourse mentioned in the act. I do not know that I am competent to judge in what light Great Britain will view the subject. I do not know that the nation will be disposed to break off the negotiation entered into; but I say that I would not alter the stipulation which induced them to revoke the Orders in Council, or I might justify them in recalling their promise.

But gentlemen say, that although the Orders in Council were revoked, they have been renewed in another form. I do not know that they have been renewed. As far as we know we see everything satisfactory, and nothing to interrupt the course of the business. We have no right to say a word about the agreement entered into here, in relation to the modification in the Orders in Council, for the alteration of them and the agreement to revoke here were nearly on the same day, and there cannot therefore be any right to suppose that one is in accordance with the other.

Now, sir, is it possible that Congress will interfere and do anything which shall serve to embarrass the negotiation? It is taking upon themselves so great a responsibility that they would hardly answer it to their constituents. It is true that the President has not recommended anything specific which he has thought proper to be done. I could wish that he had, for I believe it would have been proper. Sir, the admission of French ships will be productive of a very serious evil. They will lodge in our ports, learn what vessels are going out, and go and take them. But this is not the chief reason with me for interdicting

French armed vessels. As far as my vote would go, I would not interrupt anything going on in the way of negotiation. If it were ascertained that the President acquiesced in this measure, I do not know that I should object to it, but nothing of the kind is signified to the House. But is it proper for me to be led by other gentlemen? I am certainly not anxious to get into a situation similar to that in which we were six or eight months ago. I do not want to see the negotiation interrupted. If we alter the stipulations of the non-intercourse act, there will be a plausible pretext for breaking off the negotiation, if they wish to do it. If we should again get into a situation similar to that, it would be a great consolation to know that we had done nothing to authorize it.

Now as to the particular reason why this amendment should be adopted, to put it beyond all doubt that vessels shall be admitted, I certainly shall not agree to it. I hope there is a majority of the House that will not agree to the alteration. As to what further we should do on the subject, I will not at this time say.

Mr. RANDOLPH said he meant to take very little part indeed in this debate, because he conceived that he labored under a very great difficulty in understanding the bill which had come from the other House, as to any practical good which could result from it. He said he saw, indeed, a great many sections of the non-intercourse act of last session retained, and a great many abolished; but when he considered the whole circumstances of the case, this bill appeared to him to be a very flimsy covering to the national nakedness. It would perhaps, said he, be arrogating too much to myself to undertake to pronounce what results would follow from the bill, should it be agreed to in its present shape. I do believe that would be a question which the best legal abilities of this country, and our courts, if it shall be brought before them, will have no small degree of difficulty in deciding. But if I understand the proposition now under consideration, it is made for the purpose of avoiding any absurdity of construction of this bill, and to declare with greater precision that the armed ships of Great Britain and France shall absolutely be admitted into our waters. This is a proposition to which I do not feel at present disposed to agree—and wherefore, sir? Why, because, if I understand anything of the nature of the measures of resistance taken during the last session of Congress to the unlawful edicts and decrees of France and Great Britain, this exclusion of the armed ships of those two nations constituted a part of that resistance. For my part, I never had much opinion (nor have I any better now) of attacking seventy-four gun ships with paper; but really I cannot consent to declare that these ships shall be admitted peremptorily within our waters, when I consider what must be the inevitable consequence of such an admission—for I hope the House will understand me. I speak not in the disjunctive but in the adjunctive in relation to this proposition. It is, by the decrees of France, the right (if right can be conferred by an arbitrary pretension) and

JUNE, 1809.

Non-Intercourse.

H. OF R.

duty too of the armed ships of that country, both public and private, to capture every American vessel which shall have been spoken to or visited by any British armed ships. From this ground France has in no degree receded—and yet shall we declare that her ships of war shall come into the Chesapeake, the Hudson, or into Boston harbor, as if we were afraid that their opportunities of executing their illegal decrees would not be sufficient, unless we gave them the rights of hospitality here? Whenever one of those armed ships either comes in or goes out, unquestionably she will be in the habit of taking every American vessel which has been spoken by a British ship of war. Under these circumstances I do confess that I am not ready to say to these people "You shall come in." I had rather have the thing in *statu quo*. I had rather, if they do come in, that they should come in in quality of intruders; that these captors of our property under their illegal decrees should not receive any kind of sanction whatever from the admission of their capturing vessels within our waters. At the same time I hope I may not be so much misunderstood as to be thought capable of supposing that our pen, ink, and paper, will keep the *Patriot* or any other ship of France from coming in or going out—I am fully impressed with the mortifying conviction that it will not—but at the same time I am unwilling to give them an express right and title to come; and I wait with deference and with patience too for gentlemen to show what are the relaxations on the part of France, what the concessions and modifications of her illegal decrees, in resistance to which this ground was assumed at the last session of Congress, which will countenance us in declaring by law that her armed ships shall come within the waters of the United States.

It really is a curious situation in which you are got through the instrumentality of this bill to interdict commercial intercourse between the United States and Great Britain and France, and their dependencies. It seems to me that the only possible object of the present session of Congress, if it once be admitted that we are not assembled here to transact the ordinary legislative business, is, that this non-intercourse law may die as soon as we adjourn, because it was to continue till the end of the next session of Congress. Therefore, there was to be and is a session of Congress, in order that we may cease and determine. Perhaps I shall be asked, on the other hand, for a project; and may also be asked, if we do adjourn, and the act to prohibit intercourse dies by its own limitation, what will exist in resistance to one or the other of those two countries on our part? I might say, suppose the bill to continue, what does exist of the nature of resistance? What ever did exist like resistance?

By the 11th section of the non-intercourse law the President was authorized to suspend the law in relation to that Power which should revoke or modify its edicts. Great Britain having done this, we are placed in that situation in relation to her. It is now proposed, if I understand anything

of the bill, to change that situation—how? To change it by expressly admitting the armed ships of Great Britain and France (I speak in the conjunction) into our ports and harbors. So that whilst the President of the United States has, in consequence of certain communications between him and the British Government, very wisely and patriotically changed the relations between this country and Great Britain, we are, therefore, without any communications between the President of the United States and France, for the purpose, if I understand the argument, of keeping the balance accurately adjusted between these two Powers, to admit them both into our waters. Now, sir, suppose, on the contrary, that the first overture towards concession and relaxation of their decrees, had come from the French Emperor, and that consequently the President of the United States had, as it would have been his duty to do, suspended the act on which we are now legislating in relation to France. What would have been thought of a proposition that, because the President had such assurances as were completely satisfactory to induce him to suspend the non-intercourse law in relation to France, therefore, we must make some concession to Great Britain, who had shown no disposition to relax in her decrees and orders, for the purpose of keeping the balance of impartiality between two nations, one of whom had and the other had not, in a degree at least, come into our measures? If such a proposition had been made, it appears to me that it would have been scouted. I do not see the whole drift of this bill, but I want to know if the United States ought, without any manifestation of a friendly disposition on the part of France, to make any relaxation of that which they have chosen to call resistance to France, and more especially, if at the very moment they do on paper most rigorously interdict all commercial intercourse with France and exclude her merchant ships, they should by a positive legislative act such as the amendment now under consideration admit her ships of war. If we admit her ships of war, *a fortiori* I think we ought to admit her merchant vessels.

I have not much expectation of participating more in the final passage of this bill than I did in the act to which this is a supplement. I hope all the good will be received from it which is expected; but, with that amendment, I shall be compelled, however reluctantly, to vote against the bill. And that shows the propriety, in my opinion, not only the propriety but the political necessity, which exists for this House to remain in session until we can receive, and we must be in daily expectation of it, some manifestation of the disposition of the French Government towards us. I do think it would be an act of political dereliction in us, situated as we are in regard to France—and I have as little disposition to go to war with France as any man; I shall show the same disposition towards France now as I did in 1799—I think it would be highly improper in us to change our disposition in relation to France by admitting French ships of war, when,

H. OF R.

Non-Intercourse.

JUNE, 1809.

in one week after we adjourn, news may arrive of the Emperor and King taking our proceedings in very high dudgeon, and that he has declared war or issued letters of marque and reprisal against us. It seems that we are to pass this bill in our anxiety to do something, the same old prurient itching to do something which has prompted us to former measures, and in our anxiety too to get away from this place or to surrender this Hall for the celebration of the next fourth of July; for it seems by the papers that *molens volens* we are to be turned out, and not only that, but that the use of the room is to be vested in strangers. In my opinion this room is national property, consecrated to legislative business, and it is not competent for any person whatsoever at any time to take possession of it or put it to any use without the sanction of an order of this House. That by the way. I shall listen with great attention to any one who will induce me to believe in the propriety of this amendment. If we forget all that we have said, I hope in God we shall not forget all we have voted and resolved. I wish any gentleman to show me not merely the expediency but the right, without abandoning all sort of claim to legislative consistency, which we have to adopt the measure now presented. If we do, we shall have launched an anathema on the 10th Congress to which even I would be sorry to give my assent. I see them denounced publicly, but I am unwilling to give my aid and sanction, and I hope that the gentleman who composed it will be equally unwilling to give their sanction to the denunciation.

Mr. J. G. JACKSON said it would be recollected that when this subject had been under discussion some weeks since, in the course of the wide range which had been taken and which had been so much censured, he had stated that he was of opinion that it best comported with the honor of this nation to exclude all armed vessels from our waters, subject to such regulations as should be fixed by treaty. But it seemed that gentlemen thought at this time, when a negotiation with Great Britain was upon the tapis, and the intention of any act of this kind would be liable to misinterpretation, it would be assuming a hostile attitude towards that country, and that, therefore, it was proper to admit armed vessels. In that wide range of debate, said he, I observed that the untuned injuries of Great Britain had equalled if not exceeded those of France, and I, therefore, asked why should we make a distinction in the admission of her armed vessels. There is a doubt in my mind of the construction of the law, though some of my friends think it is perfectly plain. I would ask the gentlemen from New York and Massachusetts (Messrs. GOLD and LIVERMORE) if they had to choose whether they would admit or exclude both, if they would not rather admit them? But it has been said that the 11th section of the non-intercourse law did authorize the admission of armed vessels of either belligerent complying with the terms of the law. If this be the true and sound construction, why not express it, when we know very well that a different con-

struction has been put on it? But it is not sound. The law says that commercial intercourse with the nation revoking its edicts "may be renewed." What may be renewed? The trade of the United States; and it was a liberal construction of this section to include in the arrangement the admission of vessels carrying on this trade. The law simply provided that the relations between the two nations should be placed in *statu quo*, which would not include the admission of her armed vessels.

But the gentleman from Virginia says that this amendment proposes a peremptory admission of the armed vessels of the belligerents. He certainly has not examined it with his accustomed penetration or he would not have hazarded the assertion. It is not an authoritative admission. It merely says that the law shall not be construed to prohibit their admission. It does not say explicitly that they shall be admitted, but removes the interdiction; and if they come here with hostile intentions, or during a state of war, they are still liable to any measure of the Government, for the power of excluding vessels from our waters still remains with the President, and may be applied to the vessels of any nation violating our peace or sovereignty. I am unwilling now to excite a disagreeable and unprofitable discussion on our foreign relations, at this time so delicately situated, and, therefore, shall not go over the ground which gentlemen have taken on this occasion, but will leave them peaceably to occupy it.

About four o'clock, a motion was made by Mr. SMILE that the Committee rise, and carried.

THURSDAY, June 22.

The report of the Committee of Elections made yesterday on the contested election of WILLIAM BAYLIES, was read and committed to a Committee of the Whole on Saturday next.

Mr. MUMFORD presented a petition of the thread makers in the city of New York, praying that an additional duty may be imposed upon white and colored thread imported from foreign places.—Referred to the Committee of Commerce and Manufactures.

Mr. GOLD, from the committee appointed on the nineteenth instant, presented a bill to authorize the Secretary of War to ascertain and settle, by the appointment of Commissioners, the exterior line of the public land at West Point; which was read twice, and committed to a Committee of the Whole on Monday next.

The House proceeded to consider the resolution from the Senate, in the form of a concurrent resolution, authorizing the President of the Senate and the Speaker of the House of Representatives to adjourn their respective Houses on the 20th of June instant. Whereupon, the House agreed to the same, with the following amendment: Strike out the word *twentieth* and insert *twenty eighth*.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the remission of certain penalties and forfeitures, and for other purposes;" also, a bill, enti-

JUNE, 1809.

Contingent Expenses of Congress—Naval Establishment.

H. OF R.

tled "An act authorizing the accounting officers of the Treasury Department to give credit to certain collectors of the customs, for allowances paid by them to the owners and crews of fishing vessels;" to which bills they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act making an appropriation to finish and furnish the Senate Chamber and for other purposes," was read twice, and referred to a Committee of the Whole on Saturday next.

ALLUVION ON MISSISSIPPI.

Mr. MILLER observed that it had been stated to the House, in the course of the debate, a day or two ago, that the Attorney General had given an opinion that the title to the batture at New Orleans was in the United States. If that were true, it must be equally true (without deciding the correctness of the opinion) that the United States must be entitled to other parts of batture or alluvion on that river. He was against a partial investigation of a general right. He therefore wished to know if there was not other property in the same situation, and therefore moved the following resolution, which, at his own suggestion, was ordered to lie on the table:

Resolved, That the President of the United States be requested to take measures to ascertain the title of the United States to all the alluvions, islands, accretions, and banks, on the river Mississippi, designating particularly the title to those opposite the city of New Orleans, and the several suburbs laid out and adjoining the same.

NEXT MEETING OF CONGRESS.

On motion of Mr. BASSETT, the House resolved itself into a Committee of the Whole, on the bill to fix the time for the next meeting of Congress. After various unsuccessful attempts made by Messrs. BASSETT, MACON, FISK, GHOLSON, J. G. JACKSON, and STANFORD, to obtain a later day than that mentioned in the bill, (the fourth Monday of November next,) the bill, as received from the Senate, was ordered to a third reading, and was accordingly read a third time, and passed. The House refused five times to alter the day proposed, by an average majority of about thirty.

CONTINGENT EXPENSES OF CONGRESS.

The House resolved itself into a Committee of the Whole, on the bill making appropriations for the contingent expenses of the two Houses of Congress.

A motion was made by Mr. RANDOLPH, to amend the bill by inserting a provision for an appropriation of \$4,000 annually, in addition to the present annual appropriation of \$1,000, for the increase of the Library of Congress. This motion was carried in Committee; and, after eight or ten unsuccessful motions to adjourn, and great opposition made to it, it was carried by yeas and nays—53 to 32, as follows:

YEAS—Ezekiel Bacon, Daniel Blaisdell, John C. Chamberlain, Epaphroditus Champion, Martin Chittenden, Orchard Cook, Richard Cutts, Sam'l W. Dana, John Davenport, jr., William Ely, James Emott, John

W. Epes, William Findley, Jonathan Fisk, Thomas Gholson, jr., Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Benjamin Howard, Jonathan H. Hubbard, John G. Jackson, Richard Jackson, Richard M. Johnson, Herman Knickerbacker, Edward St. Loe Livermore, Robert Le Roy Livingston, John Love, Matthew Lyon, William Milnor, Jonathan O. Mosely, Thomas Newton, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Peter B. Porter, Josiah Quincy, John Randolph, John Ross, Samuel Smith, Richard Stanford, John Stanley, William Stedman, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Uri Tracy, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Ezekiel Whitman, and James Wilson.

NAYS—Willis Alston, jr., William Anderson, John Brown, William Butler, James Cochran, James Cox, Joseph Desha, Gideon Gardner, Peterson Goodwyn, Daniel Heister, Thomas Kenan, William Kennedy, Nath'l Macon, Robert Marion, Samuel McKee, Alexander McKim, John Montgomery, Thomas Moore, Jeremiah Morrow, John Rea of Pennsylvania, John Rhea of Tennessee Matthias Richards, John Roane, Thomas Sammons, Benjamin Say, George Smith, Henry Southard, Jacob Swoope, John Taylor, Robert Weakley, Richard Winn, and Robert Witherspoon.

The bill, as amended, was then ordered to a third reading to-morrow.

NAVAL ESTABLISHMENT.

On motion of Mr. CUTTS, the House resolved itself into a Committee of the Whole, on the bill concerning the Naval Establishment.

[The bill provides, "That the President of the United States, in the event of a favorable change in our foreign relations, be, and he is hereby, authorized to cause to be discharged from actual service, and laid up in ordinary, such of the frigates and public armed vessels, as, in his judgment, a due regard to the public security and interest will permit; and that so much of the first section of an act, entitled 'An act to authorize the employment of an additional naval force,' passed at the last session of Congress, as requires the public armed vessels to be stationed on the seacoast of the United States and Territories thereof, be, and the same is hereby, repealed."]

Mr. PITKIN moved to amend the bill by inserting, after the word *authorized*, the following: "to cause to be sold all the gunboats belonging to the United States, except such as he may judge requisite for the public service; and, also."

Mr. PITKIN observed, that if the time was not yet come for discharging the gunboats from the Navy Establishment, the time must come. The House now had before them a statement of the Secretary of the Navy, from which it appeared that one gun on board a gunboat required to fight it nearly six times as many men, and almost six times as much money as a gun on board a frigate. This was precisely the state of the question; and it appeared that even the comparative estimate of original cost was in favor of large vessels; that nineteen gunboats, each carrying two guns, would cost more than a frigate of fifty-six guns. The difference between the expense of fighting a fifty-six-gun frigate and fifty-six boats, each carrying

H. OF R.

Naval Establishment.

JUNE, 1809.

one gun, was half a million in favor of the former. The only argument, then, in favor of gunboats was, that the gunboats might answer a better purpose than frigates. Mr. P. said they might or not. In some cases frigates must be of much greater service than gunboats. It was not only on account of the expense of these gunboats in service that he objected to them, but on account of the expense of keeping them in ordinary. And it appeared to him that Congress ought not to continue this expense, unless some very great benefit was to be derived from it. For the purpose of showing the state in which these boats probably would be at the end of the year, Mr. P. said he would beg leave to call the attention of the Committee to a letter of the Secretary of the Navy in answer to the queries of a committee of the Senate on the subject; and, for this purpose, he quoted the report (*ante* p. 27.) It appeared by this report, that it would require a large annual expenditure to keep these boats in ordinary. He said he did believe, and always had said it, that, in case the country should ever be invaded, and gunboats were wanted to aid and assist our forts and frigates, they could be taken up in the course of a month in sufficient numbers. All bay and water craft could be immediately turned into gunboats. There could be no necessity, therefore, to keep these boats against invasion, and they could be of no use in any other case, for it was agreed on all hands that they could not go to sea. In point of economy, therefore, was it not best that they should be sold; and, if ever we should be invaded, if ever a hostile force should come upon our coast, that river craft should be taken up on the spur of the occasion and converted into gunboats? It could not be doubted. Mr. P. said, he therefore hoped, notwithstanding gentlemen had heretofore voted for gunboats under the belief that, in case of invasion they might be of some service, yet as the probable good was far counterbalanced by the certain evil that they would vote to sell them. He did hope that the time was now come, when from fact, (not theory,) from the report of the Secretary of the Navy, it appeared that we have given too much for our whistle, gentlemen would be convinced it was high time to part with the gunboats.

Mr. BURWELL said it was a very easy matter to understand this contest between frigates and gunboats. The gentleman from Connecticut had always been opposed to the latter, because if the United States expended a part of their money in gunboats they would not expend as much on frigates. For one, if the United States were to have a navy of any kind, Mr. B. said he was decidedly in favor of the gunboat system, for this plain reason, that the gunboat system was one which it was in the power of this nation to carry into effect, and the navy system was not. When the object was within the power of the Government, was it not more consistent with sound discretion to aim at that, than at one which was beyond its reach? The gentleman from Pennsylvania (Mr. MILNOR) told us that nobody ever dreamed of our fitting out frigates to resist or coerce the Brit-

ish Government, but to oppose the French, because their marine is small. Now, sir, if it is decided that, whatever may be the conduct of the British Government, we may not meet them on the ocean, where is the necessity of accumulating a species of force which cannot cope with similar force of other nations? I have always been of the same opinion on this subject as the gentleman from Pennsylvania, and therefore have always been against frigates. And here I will observe, that except it is by commercial restriction, I give up all idea of contending with the mistress of the ocean.

With respect to the statement of the Secretary of the Navy, I believe there is nothing more obvious than that it is erroneous. He goes upon the ground that we shall always keep on board the boats so many men as are necessary to fight them; and that is the reason why the expense appears so exorbitant, and why, in the estimate of the Secretary, gunboats appear to be so much more expensive than they really are. Let me ask if the appropriations for gunboats have been deficient in any comparison with the frigates? As well as I recollect, the appropriation for one year has never exceeded \$800,000.

There is another circumstance in relation to these vessels which cannot, at this time, be remedied, and which, it is unfortunate, was not attended to when they were built. The gunboats are too large. As a species of armed vessels never to go to sea on a cruise, they have not been constructed in such a manner as best to answer the purpose they have in view. I have conversed with the officers of the Navy on the subject, and they stated to me that the gunboats of Europe are small, and put in motion by means of oars, sometimes perhaps using a single sail. A gunboat of that kind might be built for \$2,000, and answer every purpose to which the largest boat now in service is competent. Let me ask the gentleman from Connecticut whether—if, according to the doctrine of the gentleman from Pennsylvania, your Navy is intended exclusively to fight France, and fit for no other purpose—consistency would not require that we should, at least, suspend for a moment the sale of these vessels? However unpopular this species of vessel may be, let me ask whether, if sold, they would bring the price which the timber of which they are constructed cost the United States? Is it necessary to mark with reprobation this system, which has received the approbation of all Europe? Why throw away all the capital already expended on it? The gentleman says, that they are of no service, inactive, and that if we want them for service we should soon be able to purchase bay-craft for the purpose. Let us keep them by us till they rot. If they are found to be unfit for the service of the country, build no more of them. If you sell them now, they must be sold much beneath their cost or value.

Besides, sir, I am one of those who have frequently voted for gunboats, not because they were the rage at all, but because I believed them adequate to the object in view. And, let me tell

JUNE, 1809.

Naval Establishment.

H. OF R.

the gentleman, however useless he may deem them in the Northern ports, they will be of service on the Southern shore, where the water is not so rough. The gentleman tells us these boats never can be of service unless we are invaded. If that argument be good against them, let me ask him why has he pressed upon us the increased expenditure for fortifications? Why is he averse to dismissing the frigates, and presses a continuance of our present attitude? Because, I presume, he fears something of this kind. I should presume that his reasoning in favor of an increased expenditure for fortifications would apply as well to gunboats. I am willing to acknowledge that the expenditure is now greater than a time of perfect safety would authorize; and if we wait till that time arrives, I shall have no objection to reduce the expenditure. If a reform now takes place, however, it is upon the ground that some change has taken place to justify it; and I hope we shall give the President a like authority in relation to the frigates as to gunboats. I am decidedly in favor of beginning with them. What do you want with frigates? We are told they cannot oppose England; and do you want them to oppose the mere *brutum fulmen*, which the French force on the seas has been so often called? Whilst we are calling the public attention to the enormity of our expenditures, and inviting a reduction of them, let it begin with a species of defence (the frigates) not less expensive and much more useless than any other. If the motion now before us prevail, I shall certainly move to insert a clause for selling all the frigates as a matter of course.

Mr. LIVERMORE supported Mr. PIRKIN's motion. God forbid, said he, that I should be the means of depriving our Southern brethren of the means of defence! The motion only goes to sell such of the gunboats as may not be deemed expedient for the public service. I have no objection that our Southern brethren should retain so many as are necessary for their defence, but I disclaim owing our defence to such means. I am perfectly willing that Virginia and North Carolina, or the Western States of Tennessee, Kentucky, and Ohio, should have them. I go upon the ground that all the gentlemen from those States entertain the same opinion as the gentleman last up, viz., that they are good means of defence. The idea of selling the unnecessary gunboats I believe to be correct, as they decay in a little time, and the expense of building them is very great. They require repairs when in service, and much more when laid up and exposed to the sun and weather. As to the use of gunboats, I do not know but they are beneficial in Southern waters; but in rough waters they are useless. I do not expect, even were there a certainty of war, that any benefit could be derived from these gunboats. France cannot come here to invade us, and if we make any resistance to her it must be at sea by means of our Navy. It does not follow, however gentlemen may apprehend benefits to result from the increase of our Naval Establishment, that such an increase would be made in consequence of the sale of the gunboats. I believe that this motion

for selling gunboats proceeded solely from a desire to get rid of the expense of keeping them.

It has been said that some European nations employ these gunboats. It is true; but no nation except Spain has many. They are useful only in a dead calm, when a large ship becalmed might be annoyed by them. Although used in the South of Europe to annoy the Barbary Powers, it is only there that I have ever heard of their being of service. And, reasoning by analogy, I believe there is no part of the world where they could be of advantage but New Orleans.

The gentleman from Virginia says that the opposition to gunboats arises from a party which is in favor of a Naval Establishment of a different kind. I do conceive that the United States cannot be protected without a certain naval force; I do not conceive that these gunboats are the best kind; but I do not expect that any other species will be given us in exchange for them. Gentlemen who have thought gunboats a beneficial species of defence, of course do not concur in the idea of selling them; but there are those who conceive that this is a part of the theoretical system which ought to be done away; and I am willing to give them up as far as they can be got rid of.

Mr. DANA said that the abandonment of error and acquisition of wisdom was one of the first fruits of experience. When experience should have taught a person his error, to persevere in it lest he should be thought deficient in wisdom, could be no proof of solidity of intellect or attention to the public good. I recollect, said Mr. D., that I for one voted for a large number of gunboats—not that I was very much attached to these things called gunboats—not that I believed them to constitute a good mode of defence, but as a subordinate aid in the general system. But at the time I voted for it I was not so much aware of their defects as I am now. No species of land or naval force can be of use without activity and skill; and as to this species, if anything can be hostile to activity which produces stupidity, supineness, and neglect, it is gunboats. As to naval skill, if there be anything which can teach a man to unknow his knowledge, if I may use the expression, it is being placed on board a gunboat. As to young men who might be worthy of commissions in the Navy, if anything can render them unworthy of them, it is the remaining on board gunboats in port. I consider the system of gunboats, laid up in ordinary, as a system of hostility to maritime activity or naval skill. Make a seaman on board a gunboat! Teach a young gentleman to be fit for command, teach him a habit of subordination, and commanding others with propriety on board a gunboat! It is impossible, sir. I appeal to gentlemen who know anything of it, whether it is not deemed much to the credit of a young gentleman if he be not ruined by being placed on board a gunboat. I do not speak of persons employed in active occupations; but, I ask, where should he find himself at home, see his friends, and be received by them; where he should study, where make his observation

H. OF R.

Naval Establishment.

JUNE, 1809.

keep his log-book, and things of this sort, on board a gunboat?

The question before us is this: whether gunboats should be laid up in ordinary? The first section of the bill proposes to give to the President of the United States eventual authority for laying up the frigates and gunboats in ordinary; and my colleague proposes, that when the frigates shall be laid up in ordinary the gunboats shall be sold. The question is, whether the gunboats shall be laid up in ordinary? I was one, who, about the commencement of the gunboat fever, when a proposition was under consideration for building a number of gunboats, proposed an amendment authorizing the procuring a quantity of timber, suitable for building gunboats, to such an extent as might be deemed requisite. If this had been done, much would have been saved. What is the principle on which you would lay up a frigate in ordinary for a certain time? It is because this article is so large, so expensive, and requires so much skill, time, and care, to make it fit for service, that it cannot be got ready under a long space of time; some years even may be required for it. You must have timber of unusual sizes and shapes, the best masts, cordage, &c. These materials will take much time to prepare. Fortifications were a species of permanent defence, not built to meet any particular emergency, but to resist assault whenever made. So frigates are vast floating fortifications; and when not wanted may be laid up so as to be ready for service in a very short time. But as to gunboats—how long will it take to make a gunboat throughout? A month or six weeks. In that time they may be turned out by the hundred. Is there any great difficulty in their construction? Do you want the best timber, or are your forests to be searched for masts for them? No, sir. Then why keep them in ordinary at an expense of four hundred and thirty dollars a year, when not wanted for actual service? There can be no use in it. The idea of laying up gunboats in ordinary is utterly incompatible with the principle on which gunboats are built at all. The alarm of war is done away, which has existed for eighteen months past, and there is no use for them. They will go to decay; you will acquire no naval skill from them; they are odious to seamen and disadvantageous to the public. When you lay up your large ships, sir, you may sell the gunboats, because they are not worth the care of keeping.

Mr. CUTTS said he had hoped that this subject would have been permitted to sleep. The committee who reported this bill were opposed to selling the gunboats. When this bill was taken up I had no idea that the question would be agitated; but, since it has been brought forward, I will make a few observations upon it.

The gentleman from Connecticut (Mr. PINKIN) has told you, that to keep a fifty-six gun frigate in service for a year, will require \$120,000, and to keep fifty-six gunboats for the same time, will require \$670,000. I differ with him materially. The cost may be greater, but not so dis-

proportionate. If the gentleman had pointed out a single instance in which it had been proved that gunboats were not useful, I should have listened to him with attention. But neither he nor his colleague, (Mr. DANA,) who has pushed them out to sea on service for which they were not intended, said anything of that kind. From my knowledge of naval tactics, I can say that, in some situations, I had rather have five gunboats than a frigate. The great advantage of gunboats is, that they will carry heavier metal.—Whenever an enemy attempts to come into your waters, they will always take into calculation their chances of success or defeat. The tide may turn; they may be becalmed, in which case five gunboats, carrying two and thirty-pounders, will be of much more service than a frigate. Perhaps, when an enemy's fleet actually enters our waters, and arrives at the place of its destination, the wind may blow so strong, and the tide run so swift, that they cannot get a spring upon their cables to enable them to fire a broadside. The gunboats, lying in the shoal or calm waters, can lie at greater distance, and yet from their weight of metal keep the frigates within range of their own guns; they are low, and can take aim with greater certainty than a frigate; and from the smallness of their bulk, even if within range of the frigate's guns, are scarcely tangible. I have seen a debate in the British Parliament, in which the British Ministry were censured for not protecting the commerce in the Mediterranean. It was said, in reply to the charge, that the whole British Navy could not protect it against gunboats.

It will be recollected, sir, that when the boats are laid up in ordinary, the expense will not be great. The Secretary of the Navy has given an opinion of the expense; but I must be permitted to say that I know a little of the subject myself. I believe the expense will not be so great as it is stated. Suppose these gunboats were to be sold, and that, from any change in our foreign relations, they should be wanted this Fall. In the first place, we shall have been at the expense of purchasing gunboats at \$10,000, and have sold them at \$500 each, and shall have to appropriate so much money again for building them; and, in the next place, it may not be possible to procure them before it is too late for any service.

Gentlemen attempt to deride them. This, sir, is a mode of decrying them which is resorted to from a defect of argument against them. It is said that sailors are dissatisfied with the gunboats. A sailor will, in every station, be dissatisfied, whether on board gunboats or frigates, and this is no argument against them. As to their rotting, I know a little about that too. The difference in their preservation between their being in actual service and in port, is very slight. And in respect to the utility of gunboats, I presume gentlemen will not put their knowledge in competition with that of the officers of the Navy, and others who have given their opinions in favor of it. If gentlemen would not carry them out to sea, but consider them as a defence proper for

JUNE, 1809.

Naval Establishment.

H. OF R.

bays and rivers, in that line they must be eminently useful. Officers, in service, no doubt like frigates better than gunboats, because every man had rather command a frigate than a gunboat. The gentleman from Connecticut tells you that the officers have no place to write or take an observation. In reply to that, I would observe, that the officers have but little writing to do, and that the proper place to take an observation, is the deck, and not the cabin.

My colleague (Mr. LIVERMORE) says, that the Southern gentlemen are fond of this species of defence. I am, too; I think it one of the best. Gunboats are always ready, and men can be found on the spur of the occasion to man them. Frigates, however useful when in service, take some time to prepare them, and must be manned with good seamen. For these reasons I am opposed to the motion, and hope it will not be adopted.

Mr. PITKIN said that, in making his motion, it had not been his object to provoke a long discussion, but from a conviction that the gunboat system was one which could not be persevered in, that experience must satisfy gentlemen on this floor, and had already satisfied the nation of the inefficacy of them, he had thought it his duty to bring the subject before the House. If it be really supposed that this species of arming would be an advantage to the nation, in proportion to its expense, I should be one of the last men to wish to put it down; for although it is true that the appropriations for the Army and Naval Establishments must be great, yet, if it be necessary that the whole of these establishments should be kept up, I am willing that they should. The House will judge whether it be necessary or not, and in their decision I shall cheerfully acquiesce. But I did believe, in the event of a settlement of our differences with the other belligerent, it would be better that this species of armament, instead of being laid up in ordinary, should be sold. Believing this, and the late report of the Secretary of the Navy placing the subject of the gunboats in a stronger light than they ever yet have been placed, and which must be satisfactory to the House and to the nation, I thought it proper to bring the subject before them.

We are told by the gentleman last up of the efficacy of gunboats. Five gunboats equal to one frigate! It is difficult for me to reason on this subject; it is impossible to subscribe to the doctrine. I did not attempt to deride the gunboats. I stated that I had always been opposed to them; that I did not conceive them a species of profitable defence. I believe that the nation has pronounced upon them the sentence that their expense is much greater than the benefit derived from them.

The gentleman calls upon us to show where they are not useful. I ask him to show where they are useful. The burden of proof lies on gentlemen who support them. With respect to the Northern section of the Union, it is the opinion of all classes of the people, and especially of naval gentlemen, that they will not be of service.

That they may be of some service in the Mississippi, I am not disposed to deny; and I am desirous to give the President power to retain so many as may be necessary for that purpose. Wherever there is a bold shore they can be of but little service. Let the President of the United States sell so many as are not necessary for the Mississippi, or rivers to the South; for, if the public service requires them, it is to be presumed that he will retain them, as the law prescribes.

But gentlemen say, will you not keep the gunboats in service on the same principle as you keep the frigates in service, granting that they can be only as useful in case of invasion as the latter? As for myself, sir, if I vote to keep the frigates in service, I do it not for fear that we shall be invaded, because I believe that there is no danger of invasion; but to protect commerce along our coast, and preserve peace within our waters. Can gunboats do that? That they cannot is agreed on all hands. I do believe that if we had had a single frigate stationed in the harbor of New York, the case of *Pierce* would not have happened. If they had been stationed on our coast, the aggressions upon our commerce would not have taken place in the manner in which they have. It is not, therefore, to protect the country against invasion that I shall vote to continue the frigates in service, leaving it discretionary with the President to lay them up in certain events. Have we given up our idea of protecting commerce in the Mediterranean or in foreign seas? If so, why have we ever attempted it? Why have we expended several millions upon it? The same reasoning does not apply to both species of defence, in my opinion.

I do not know what these gunboats will bring in market, if sold; they might be used for some purposes; but they must be sold at a loss. The difference between what they would bring, and what others would cost when wanting, would not be so much as, if laid up in ordinary for four, five, or six years, they would cost the United States. I do not believe, sir, that we shall build more gunboats hereafter; but if they were necessary, they might be built in a very short time. However the House shall decide, I shall be perfectly satisfied. I do believe that the time will arrive—whether it has now come I cannot say—when the gunboats will be sold; and that whatever naval force we have must be composed of more sterling stuff than gunboats.

Mr. COOK said, that although he had never been a friend to gunboats, he considered the present an improper time to sell them. And as he was not willing to give the President a discretion over the gunboats which he had not over the frigates, he said that he should vote against the motion.

Mr. DANA said he calculated with perfect certainty on the vote of the gentleman last up, for the same authority did exist in relation to frigates as was proposed to be given in relation to the gunboats. The real question was not, Mr. D. said, as to the efficacy of gunboats in time of actual war, or the opinion of any of our naval

commanders, particularly of that eminent commander, Commodore Preble, in relation to them. But let gentlemen say, whether any commander ever spoke of laying up the gunboats in ordinary in the same manner as you would ships of the line and frigates? The talents of a boatswain or boatswain's mate were not necessary to enable a man to judge of this subject, any more than the skill and experience of a recruiting sergeant were necessary in marshaling an army or planning a campaign. Mr. D. said he wished not to be guided by the opinions of those members of the House who were so fortunate as to know more about merchantmen, or armed vessels, than some others. As to the defence of our rivers, he asked whether floating batteries were not better, and if a floating battery could not take much steadier aim than gunboats? They might be useful in some cases; they certainly were useful off Tripoli. They were useful, because they were the means of bringing men of valor and skill in conflict with the enemy; and valor and skill prevailed. Whenever it was proper to lay up the frigates, it must be proper to sell the gunboats. This was what he contended for, let gunboats be as useful as gentlemen pleased, applaud them as much as they would. As to seamen, they are much like other men, if you give them two qualities for which they are distinguished, bravery and generosity; but for the rest, they like good living and accommodation, and have as much aversion to odious service as any other men. I do not believe that the seamen are willing to go on board of gunboats, except to fight the enemy. For that purpose they are willing to go on board of them; but as to remaining there in ordinary service, they do not like them any better than other men, nor are they willing to be enlisted to serve on board of them. To be sure, sir, I have no practical knowledge on this subject, because I have not been employed to recruit for the Navy; neither, I presume, has the gentleman from Massachusetts, (Mr. CUTTS,) but I derive my information from sources equally as authentic as if I were.

Mr. HOLLAND said he thought that the question of the utility of gunboats had been long ago settled in their favor. I recollect when the question for building them was before the House, the gentleman from Connecticut, (Mr. DANA,) gave us a history of the mode in which they are built, and the uses for which they were proper; and concluded by voting for them. Why is all this change now? Gentlemen say that experience has now shown their inutility. What experience have we had? None. We then knew, and now know, that they are expensive. That was then, however, no object with gentlemen. Have we had an assault within our waters since the establishment of the gunboat system? No, sir. We have had no experience of their inutility, then, because it must have been derived from an experiment of them. Is it proper that we should now deprive ourselves of that species of defence which has been supposed to be the only proper system? On what ground of relaxation ought we

now to act? None that I know of. The principle against which we have contended with foreign nations is still maintained; the principle of blockade, by proclamation, is still practised on. Would it not be a disgrace to the Councils of the nation to dispose of these vessels for a tenth of their cost before the period which called for their employment has expired? As we now have them, why shall we, to save the paltry sum of \$60,000 a year, dispose of the most efficient mode of defence? If we are to do anything on this subject, we ought to sell the frigates and keep the gunboats. The frigates are no protection to our harbors, and nobody dreams of their being useful for the protection of commerce.

We are told that they are liable to rapid decay. Why are they so? They will not decay before the frigates. They are made of the same materials, and one will not decay faster than another merely because it is smaller. A plank in one will not rot before a plank in the other. The same objection, therefore, would lie against all naval force.

Gentlemen say that the gunboats have cost too much. Have not frigates cost too much? Upwards of ten millions of dollars have been spent on the frigates, and it would require a very nice calculation to tell what good they have done. Instead of keeping you in peace, they will increase the objects for war. If we had twenty or thirty frigates, we should soon be in war. If the United States had not had the Chesapeake, the nation would not have been disgraced. We shall find ourselves insulted in proportion as we increase the number of our frigates. What has been the use of all the money expended on the Navy since the last session? Their expense is, always has been, and always will be, greater than their utility. It is futile and improper to attempt to defend our commerce on the ocean with them; for when we attempt a thing to which we are incompetent, we only show the weakness of our councils and the nakedness of our country. I, therefore, think the gunboats should be retained in service, and the frigates sold.

Mr. LYON was against making any change in the situation of the country at all. Was it not to save the time of the House, he would call for the reading of a lengthy report in favor of the gunboats. As to their being disliked by officers and seamen, he observed that there had been no want of applications for offices on board of them. He could see no reason for selling the gunboats.

Mr. RHEA also opposed the motion.

The motion was negatived in Committee, and being renewed in the House, was decided by yeas and nays, as follows—the yeas being in favor of selling the gunboats:

YEAS—William Baylies, Dan'l Blaisdell, John Campbell, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, Matthew Clay, James Cochran, Orchard Cook, Samuel W. Dana, John Davenport, jr., William Ely, James Emott, Chas. Goldsborough, Thomas R. Gold, Nathaniel A. Haven, Jonathan H. Hubbard, Richard Jackson, Robert Jen-

JUNE, 1809.

Non-Intercourse.

H. OF R.

kins, Walter Jones, William Kennedy, Herman Knickerbacker, Joseph Jewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBride, Thomas Moore, Jonathan O. Mosely, Joseph Pearson, Benj'n Pickman, jr., Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Ross, Daniel Sheffey, Samuel Smith, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, James Wilson.—53.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, Joseph Calhoun, John Clopton, Howell Cobb, William Crawford, Henry Crist, Rich'd Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Peterson Goodwyn, William Hale, Daniel Heister, William Helms, James Holland, Benj'n Howard, Jacob Hufty, John Love, Matthew Lyon, Aaron Lyle, Robert Marion, Samuel McKee, Alex'r McKim, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, Benjamin Say, Samuel Shaw, John Smilie, George Smith, John Smith, Henry Southard, John Taylor, John Thompson, Uri Tracy, George M. Troup, Archibald Van Horn, Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.—73.

Previous to the question being taken on the amendment, Mr. MAcon moved to amend it, so as to include the frigates not necessary for actual service.—motion negatived, without a division.

Mr. NICHOLSON moved to amend the bill, by inserting, after the word *ordinary*, the words *or to be sold*. The motion was declared not to be in order, being the same, in substance, as that which the House had just decided. The bill was then ordered to a third reading to-morrow, without opposition.

FRIDAY, June 23.

A bill from the Senate authorizing the Comptroller of the Treasury to give credit to certain collectors of the customs for sums paid by them to the owners of fishing vessels, &c., and a bill for the remission of certain forfeitures and penalties, and for other purposes, (inflicted on the sufferers from Havana who have unwittingly violated the law prohibiting the importation of slaves,) were twice read and committed.

A communication was received from the Secretary of the Treasury, in pursuance of a resolution of this House of the 17th instant, enclosing copies of proceedings of the Commissioners of the Sinking Fund and the correspondence between the Secretary of the Treasury and the Bank of the United States in relation to a loan under the act supplementary to the act for the further sup-

port of public credit and the redemption of the public debt.

The engrossed bill concerning the Naval Establishment was read the third time.

Mr. MAcon said he would take occasion at this time to notice the difference between the several statements received at different times from the Navy Department. He compared the reports made on the 10th of December, 1807, and on the 6th of June inst.; the latter report stating the expenses of the gunboats at nearly double of the estimate in the former. He presumed that when the one was made, there was a zeal for gunboats, and when the other was made there was a fever for frigates and fast-sailing vessels instead of them. It was stated, also, that it required forty-five men to manage a gunboat with one or two guns. He could not conceive how, it would require the same number of men for a boat with one gun as a boat with two. These things he mentioned, being an anti-Navy man, to show the inconsistency which always attended statements from that Department.

The bill was passed without opposition.

The engrossed bill making an appropriation to defray the contingent expenses of the two Houses of Congress, was read the third time.

Mr. ROOR moved to recommit the bill, with a view of striking out the appropriation for the Library of Congress.

This motion was opposed by Messrs. FISK, GOLD, QUINCY, and LIVERMORE, and supported by Messrs. SMILIE, RHEA, and HOLLAND, and negatived—55 to 52. The bill was then passed—60 to 37.

NON-INTERCOURSE.

The House again resolved itself into a Committee of the Whole on the bill from the Senate to amend and continue in force the non-intercourse act.

Mr. J. G. JACKSON modified his motion, so as to comprise the admission into our waters of public ships of any nation whatever.

Mr. ROSS said he would, before this question was taken, submit to the Committee some of the views which had occupied his mind since this question was under consideration the other day. The importance of the subject ought to demand the attention of every member of the Committee to consider himself as sitting in the Great Council of the Nation, to conclude the great work which had been begun; he meant the restoration of commerce to its former vigorous state. I have not, said he, upon an examination of this bill, upon taking a view of the arguments offered either on one side or the other, been able to draw a conclusion favorable to the amendment which is proposed. The question propounded to the Committee by the amendment explanatory to the design of the bill, is, whether it be sound policy with respect to our relations with Great Britain and France, to permit the armed vessels of those nations to enter into our ports.

I have heard it said that the bill contemplates nothing but justice to France and England, in

H. of R.

Non-Intercourse.

JUNE, 1809.

placing them in precisely similar situations. I have not been able to perceive that such would be the effect of the bill with the amendment proposed. At present France has no commerce; no vessel of France will, I apprehend, sail from any port of France to any port of the United States at this time, except an armed vessel; so that our ports will be completely open to all the vessels of France, while, on the other hand, they are only opened to England in consideration of the revocation of her Orders in Council, and of a promise to negotiate a commercial treaty. Therefore, I apprehend that, in its effects, it will operate unjustly. But, it will be recollected that the non-intercourse law was passed at a time when it was said that the outrageous conduct of those two nations justly called for the indignation of this Government. Since that time, England has made proposals and preliminary stipulations, and entered into such assurances as warranted the President in exercising the authority vested in him by the law to which this is a supplement. Has France done this? If there was just cause to enact a law to interdict the armed vessels of France, let us inquire whether there be now any just cause to relinquish it? It may be said that she has declared that, if we make England respect our flag, she will relax her decrees. What does this amount to, but this? that she sets herself up as the judge, whether we assert our independence or not. She says: "I will undertake to decide whether you conduct yourselves in such a way as shows to our Sovereign that you make the English respect your flag." This, I apprehend, is the only ground upon which gentlemen can proceed with any degree of consistency. With respect to their conduct, last year, when they enacted this law prohibiting intercourse, I have nothing to say. But is this declaration, contained in the Milan decree, of such a nature, so specific in its terms; is the mode by which you have arrived at a knowledge of the disposition of France, so satisfactory as to authorize this Government to relax from that firm ground which they had taken? I apprehend not. It is objectionable to my mind, sir, inasmuch as it holds out the idea to the world and to ourselves, that France is to be the judge when we make England respect our flag. It is objectionable, also, because it does not designate the manner in which the French Government would relax its decrees or restore the commerce of the United States to its former situation.

But, sir, I am not satisfied with merely excluding the armed vessels of France, but I am opposed to repealing the clause interdicting the vessels of Great Britain from our waters. What have we more than promises, which I hope hereafter to see fulfilled with good faith? As the repeal of the interdiction was not made a necessary part of the agreement for the renewal of intercourse, I see no cause to rescind it. It may be said that the interdiction, as it respected the armed vessels of Great Britain, was made in consequence of the attack on the Chesapeake; and that, as atonement has been made for the attack on the Chesapeake,

therefore the act consequent thereon should be rescinded by our Government. Let us have patience, and see how this case stands. Have we got atonement from Great Britain? Has it been actually given to us? Have we any knowledge that she has actually given that kind of redress which we have agreed to accept as satisfactory? If she has, we have no knowledge of it; and we can only act from what we know. All we have is a promise, that it shall be done. What, then, would be the prudent policy to be pursued? Would it be to recede from the ground which it was deemed prudent to adopt, in consequence of the acts of Great Britain, before the promise of reparation is performed? It would appear to me that the reverse would be the proper course. I would continue the interdiction until the President shall have received the atonement, and be satisfied that these vessels might be admitted with safety. To the President of the United States is intrusted the power of making treaties. I have the fullest confidence that the President of the United States has no bias in favor of France, and no improper prejudices against England; that his sole object is to effect a restoration of harmony between the two countries. Having this opinion, I would leave everything with him to conduct on this occasion, and do no more than enable him, in the different stages of negotiation, to rescind what shall interfere with it, as he shall think right; and, therefore, I would authorize him to admit the armed vessels of either nation, as he was before authorized to renew intercourse. This would leave the state of things as we found it, without having altered in any manner the laws in relation to the two belligerent nations, as they stood at the end of the last session. Would not this be sound policy? If we were to admit the armed vessels of France, we might furnish Great Britain with reasons for flying from her promises, and breaking stipulations. Is there any immediate necessity that we should admit the armed vessels of both nations? The President alone, who is immediately concerned and interested, who knows all the different turns and changes of the negotiations, can best tell at what time it will be proper to do this act. Is there any necessity that the Legislature should do it while sitting? Would it not be better to trust it into the hands of him who is to conduct the negotiation, that he may wield it as a shield during the negotiation? Certainly. I therefore submit it to the Committee whether it be proper to admit the armed vessels of France in our present situation? Whether it would not be abandoning that impartial conduct which was manifested to the world in the act to which this is a supplement? Being impartial, why should you give up your impartial conduct? England has come to some terms; France to none. We have nothing from which we can say that France has not at this moment a declaration of war in force against us. We should make a ridiculous appearance, if we should repeal the interdiction before the rising of the Legislature; and, before we arrive at home, should hear of a declaration of war from France.

JUNE, 1809.

Non-Intercourse.

H. OF R.

Therefore, I can see no reason for relinquishing that ground, assumed last Winter, with regard to France, nor in regard to England, further than the President shall think proper. I am, therefore, opposed to the amendment, and am of opinion that the first and second sections of the act to which this is a supplement should be re-enacted, that a clause should be added to this bill, authorizing the President by his proclamation, whenever the state of affairs would justify it, to permit the armed vessels of the belligerents to enter our waters.

If I had any favorable feelings or disposition to England rather than to France, I should be disposed to adopt the amendment, because the vessels of the former are so much superior, that if the vessels of the latter should attempt to enter our waters, they will fall a sacrifice; and, therefore, though in terms the law would appear to be favorable to France, it would be giving an advantage to Great Britain so far forth as it will give her an opportunity to destroy the French vessels attempting to enter our waters.

I have given the Committee my views of the subject. I have thought of it with considerable attention, and cannot bring my mind to bear so as to think it proper to adopt the amendment proposed, or to recede from the interdiction already in existence, without committing my character for impartiality or consistency and good policy.

Mr. GOLD moved to strike out the words "any nation whatsoever," and insert "Great Britain," so as to admit the armed vessels of Great Britain only into our waters. If this were assented to, he should be willing to continue the exclusion as to France, giving the President a power to suspend it, when in his opinion it may be expedient. While up, he would make some remarks in reply to observations in support of the amendment. It has been asked said he, with some emphasis, what has France done to exclude her from our waters? I comprehend, sir, the bearing of the question, and am to understand that France has not trespassed in our waters, as was the case of England in the attack upon the Chesapeake. But does, sir, the honorable member suppose that the forfeiture of the rights of hospitality can be incurred only by an injury within the sea-line, the maritime leagues? The admission of armed vessels within our harbors appertains to the principle of hospitality, and the causes which will justify an exclusion are many and various; they are not confined to this or that part of the theatre of national intercourse. Suppose a nation, while under the obligation of a treaty of amity, denies you rights of hospitality in her own harbors? Suppose she makes prize of an unfortunate shipwrecked vessel on her coast, (a measure becoming barbarians only,) and, arresting your merchantmen in her ports upon the faith of treaty, makes prisoners of your seamen, and drives them, like beasts, into the interior, and there incarcerates them; and suppose she fills up the measure of her injustice by burning your vessels upon the high seas—will you receive such a nation with open arms, and welcome her to all the rights of

hospitality? France is the nation that has thus offended, and America is about to receive her to her embrace, and greet her with all the amities of the nation.

But, in justification, it is said that the object of our Government has been to restore and preserve equality with the great belligerents. For this the non-intercourse was made common to both nations, and the provision ceasing, as to the public vessels of England, ought to be discontinued as to France. Strange equality! Singular impartiality!

I do greatly fear, sir, that, notwithstanding these professions of impartiality, our public councils will be exposed to well-founded imputations of not holding the balance even between those nations. While, sir, I have been constrained to say that France, pursuing an unyielding course, of injustice toward this country, is not entitled to the same treatment as Great Britain, I stand free, if I know my own heart, from all impressions of favor or prejudice in relation to the belligerents. It is enough for me that a foreign nation does my country injustice, "*trois rutulusve*" is, to me, indifferent.

Mr. WHITMAN quoted the journal of the proceedings of the last session in relation to an amendment for issuing letters of marque and reprisal against both belligerents, offered by Mr. J. G. JACKSON. He said he also found, by the yeas and nays, that the gentleman from Virginia was then in favor of excluding the armed vessels of France. He wished to know what had induced the gentleman now to change that opinion?

Mr. J. G. JACKSON said that the situation in which he was placed was extremely unpleasant, because, in the course of his remarks the other day, he had stated his opinion that it would be more consistent with the honor, interest, and duties of this nation to exclude all armed ships, except such as should be admitted in particular numbers, by treaty. But it was supposed by some that such a measure might have a hostile aspect towards Great Britain, with whom a negotiation is pending, which it is hoped to bring to a happy conclusion. And having avowed these sentiments as my own, I am now called upon to combat the arguments of gentlemen expressing the same sentiments. I am reduced to the unpleasant dilemma either of maintaining an amendment which I do not like, or of withdrawing it, and thereby exposing myself to the imputation of inconsistency, and of unnecessarily wasting the time of the House on this point. But, unpleasant as it is, I am willing to meet it; and I am willing, if the bill as it came from the Senate have that operation, to exclude the armed vessels of both nations, that those who oppose the amendment may take upon themselves the responsibility of producing such a situation. If the gentleman from Massachusetts (Mr. WHITMAN) had adverted to the language of the amendment, and to the explanations of it which I gave when I first addressed you, sir, he would have found that the course proposed by this bill is perfectly consistent with the course pursued last session. I recollect hearing it ob-

H. OF R.

Non-Intercourse.

JUNE, 1809.

served, in the course of debate, that we were desirous to involve the nation in war at all events, and that we were only restrained by the little parties who aided the Federal party, as it is called, in voting us down. In reply to that, I state that it was not proposed to go to war with either belligerent until after demand made and a refusal to respect our rights had been communicated to this Government; that at that time, and not until then, the President should issue letters of marque and reprisal; and I stated, moreover, that we had no information from France enabling us to determine what course would be taken consequent on the acts of last session; that it was inconsistent with good faith, at the time we sent a messenger bearing the olive branch to France, to commit an act of hostility, which it is admitted on all hands the exclusion of the armed vessels of one nation and admission of those of the other is. It has been contended by the friends of the gentleman from Massachusetts, and admitted by mine, that it was a hostile act to exclude the armed vessels of one nation and admit those of the other. It is not my fault that gentlemen cannot discriminate between admitting all armed vessels now, and excluding them at the last session. It will be recollected that France and Great Britain have been contending which nation is retaliating the unjust acts of the other; each has contended that the other commenced the work; and we had assurances from France, in the decree of Milan, that as soon as Great Britain respected the rights of neutrals, France would imitate the example. More particularly I contended against the discrimination between French and English vessels, when we have sent a messenger to France and received no answer. What should we say of a man who sent to another to request him to do him justice for an injury, and whilst the messenger was there and the other in security, should strike a blow and do him an injury in return? We should at least say that it was inconsistent with the conduct which one man ought to pursue to another; and *a fortiori* the argument applies to nations, particularly a nation like this, which does not make power the criterion of right—a character dear to us at home and respectable abroad. Sir, I am now willing to pass the sections which I proposed last Winter; to declare, that, after demand made and refusal of France to withdraw her decrees, the President of the United States should be authorized to issue letters of marque and reprisal; and the same in regard to Great Britain. But as my amendment has proved the source of fruitless debate, and there is a doubt whether or not it be necessary, I withdraw it from consideration.

Mr. SHEFFEY moved to amend the bill by adding at the end of the proviso in the first section the following:

"And provided also, That nothing herein contained shall be construed to prevent any public vessel from entering the waters and harbors of the United States, belonging to any nation with whom commercial intercourse shall have been permitted."

Mr. S. proceeded to submit to the consideration

of the Committee a few ideas on the subject. He believed that the bill, as it now stood, was intended to admit the vessels of war of all nations. Probably from inattention in the passage of the bill, the generality of the terms employed in the third section at least led to a doubt, whether the interdiction did not extend to public as well as private armed vessels. The question appeared to him to be, whether it was proper to place the public vessels of Great Britain and France upon the same footing? Mr. S. said he would very briefly attempt to show that it was not. Why, he asked, depart from that policy which last year had been considered a proper policy? Why abandon a system without anything interposing which shall render it necessary? At that time this House adopted a measure to exclude from the waters of the United States all public vessels belonging to either nation; and then interdicted all commercial intercourse, until either nation should completely satisfy the President of the United States that they were about to abandon their injurious regulations. Great Britain has made assurances which, however to be relied on, have been considered as sufficient by the President of the United States, the proper authority. As to that nation the terms of the non-intercourse act have been complied with. What are you going to do in relation to the other? That which no nation ever has done. I challenge any one to place his hands on history, and show me a case in which any country has interdicted commercial intercourse with another nation, and at the same time afforded the rights of hospitality to the public vessels of that nation. Gentlemen cannot find such a thing in the history of nations. The course of all governments has been first to deny the rights of hospitality. The exclusion of the public ships of a nation is merely a denial of the rights of hospitality, which a slight offence might authorize. To interdict commercial intercourse has been considered an act of hostility. Has it ever before been considered proper to permit the rights of hospitality, and at the same time interdict commercial intercourse? I believe not, sir. In 1798, commercial intercourse was interdicted between this country and France; but before that was done, the public vessels of France were excluded from the waters of the United States. How, then, is this plan, so opposite to the principles of propriety, and so totally hostile to all former professions, to be justified? Stability in adhering to a system commenced, is not one of the least of virtues which a public man ought to possess. He ought to deliberate slowly, but when he comes to a decision he ought not immediately to depart from it. What is intended by measures in relation to foreign nations? To produce an effect upon them. But before they can operate, it is proposed to repeal them; and the consequence of such a conduct must be to procure contempt for them hereafter. What can be thought of a nation which cannot adhere to a measure for a year together? Nothing; and especially when it cannot be shown that a departure from the principles of the last session can be

JUNE, 1809.

Non-Intercourse.

H. OF R.

of any advantage to the nation. There is to be sure some interest in having vessels of foreign nations in our waters, because it creates a certain consumption; but this is no reason to operate in a national measure. Neither reason nor interest demands the adoption of the measure. Then why adopt it, when its only effect must be merely to show your inconsistency? On that ground I shall be opposed to placing France and England on an equality.

But it is said that impartiality in our conduct towards foreign nations is proper. I most cordially subscribe to the doctrine. I wish we could always be influenced in our conduct by this consideration. Our country has been injured by both belligerents; I will not inquire by whom most lawlessly. I believe that we have felt more the injuries of Great Britain, but it is only because the tyrant of Europe has not the power to execute his wishes. The two nations were placed on an equality at the last session, because both nations adhered to their injustice, notwithstanding repeated efforts to obtain redress. The case is now different, very different indeed; and I need only observe in proof of it, that gentlemen have agreed on all hands that the proclamation of the President was a correct measure. On what ground was it issued? That we had assurances from Great Britain which authorized a departure from the principle established at the last session.

With respect to England, then, you are placed in precisely the same situation as you were in before you adopted this measure, as relates to her public vessels and to commercial intercourse. It would be proper, I contend, to place her precisely on the ground on which we offered to place her before that time. It was offered in the negotiation between the Secretary of State and Mr. Rose, that whenever assurances should be made of an intention to make satisfactory reparation for the attack on the Chesapeake, British public vessels should be admitted. If now we were to admit or exclude the public vessels of both belligerents, she might say, and with some propriety, that you had changed your ground; and, under these circumstances, the least favorable change in the aspect of affairs on the continent of Europe would perhaps induce England to recede from her overtures. With respect to her, then, it is perfectly right that her vessels should be admitted.

But now with respect to France. Has she done anything? No. And are you not as much authorized to depart from your whole commercial interdiction in relation to her as from a part of it? This country is much interested in the commerce of the continent of Europe, over which the Emperor of France has strong control. There would have been stronger reasons in favor of renewing commercial intercourse than in favor of the proposed alteration. I ask gentlemen, on what principle has Great Britain made overtures to you? On the principle, surely, that you are to leave the relations between France and this country precisely as they were. You had taken measures which affected both nations alike; you had manifested complete impartiality; and Great

Britain enters into a negotiation with you, and tells you, in so many words, that the equality on which both belligerents are placed is the reason why she has departed from her course. The moment she has told you this, you are about giving her evidence of partiality. This is a new way of effecting an adjustment between the two countries. I ask gentlemen, on that principle, will they repeat all that part of the non-intercourse law which interdicts commercial intercourse with France? Certainly not. If that argument applies to the commercial non-intercourse, will it not apply to all the provisions of the non-intercourse law? It surely will.

But, if I understand the arguments, we are to rely on the Milan decree for the intentions of France. I have heard it repeated again and again that there is no reliance to be placed on the declarations of Great Britain; it has even been hinted that you are premature in your reliance on the late conciliation. The Orders in Council were issued in consequence of the French decrees; and Great Britain declared that whenever things were placed in such a situation that they could not affect her, she would rescind her orders. Well, sir, our Government took such a station; and they were rescinded. The declaration of Britain was fulfilled. But I have no faith in the declarations of the Emperor of France. The history of his life, of Germany, of Holland, Italy, Switzerland, and Spain, falsify any assertions he may make. I am not disposed to bottom this change on the Milan decree. I wish to see acts, overtures, which shall place us precisely in the same situation in relation to her as we have been placed in relation to Great Britain.

It will be observed that the amendment which I propose will have this effect. It will admit the public vessels of Great Britain, and as soon as assurances are received by the Government of the United States from the Government of France, similar to those from Great Britain, then with commercial intercourse the permission to enter our waters will be renewed.

It was understood, sir, that if satisfactory overtures of reparation for the attack on the Chesapeake had been made by Mr. Rose, the proclamation interdicting British public vessels from entering our waters would have been rescinded. At the time the late overtures were made by England, I presume it was understood that the situation of the two countries should not be changed by permanently excluding British armed vessels from our waters. For another reason the measure would be improper. This country perhaps ought not to set the example of denying the right of hospitality. We have therefore been involved in war with the Barbary Powers, and may again when a friendly port is of infinite advantage. And this consideration aside, is it proper, when we have such cause of complaint against France, when she has made no overtures towards a restoration of intercourse, that she should be placed on this ground? No, sir; when she acts differently from what she has done, and meets us as England

has, I shall be ready and willing to meet her in the same spirit, but not till then.

Mr. ERSES said, that he felt great reluctance in bringing into discussion at the present time the foreign relations of the United States. With Great Britain we have every reason to expect an amicable adjustment of our differences, on honorable terms to the United States. With France we have a negotiation depending, which will probably terminate in a withdrawal of the decrees which violate our rights, as every reason heretofore urged for their continuance will be removed by an adjustment with Great Britain. I feel anxious, said Mr. E., to secure to the nation the full and complete benefit arising from the favorable change in our prospects. I have no wish at the present moment to pass in review the wrongs inflicted on us by either of the belligerent nations. Peace with both on honorable terms, must be the wish of every honest man, and I rejoice that on the present occasion no attempt has been made to rouse into action feelings calculated to prevent our examining with temper the course, which ought, in the present situation of our country, to be pursued. At the last session of Congress a general system of non-intercourse was adopted with both the belligerents. This measure consisted of two separate and distinct provisions. 1st, The exclusion of public armed vessels. 2dly, The suspension of commercial intercourse. This law expires at the end of the present session of Congress. No control was given to the Executive over the interdiction of armed vessels. Under the eleventh section of the act, the Executive was authorized to restore commercial intercourse with either of the belligerents on a withdrawal of their decrees and orders. This power has been exercised. A promise of the British Government to withdraw its decrees and orders on the tenth of June, has been accepted by the Executive as an actual withdrawal, and the commerce suspended restored. The liberal construction given by the Executive to this section of the law meets my entire approbation. Whilst I considered the independence of this country assailed by Great Britain, I expressed my indignation with the warmth of an American. With the causes which produced that feeling, the feeling will cease, and no man more sincerely rejoices at the prospect of an honorable adjustment than myself. Notwithstanding the recent orders and the declarations made on the floor of Parliament, I believe that the British Government will comply with its engagements. I cannot, for a moment, suppose that any nation can stain its character by an act of so much perfidy, as publicly to offer through its accredited agent the withdrawal of decrees and orders destructive to our rights for the purpose of substituting others. No power was given to the Executive to take off the interdiction from the public armed vessels of Great Britain or France. The interdiction expires at the end of the present session of Congress. Shall we renew it in relation to Great Britain? Or shall we pursue the liberal course adopted by the Executive as to the withdrawal of the decrees or orders?

This interdiction grew partly out of the injuries in our ports and waters, but principally out of the outrage on the Chesapeake. After Capt. Bradley, in 1804, insulted the port officers of New York, and claimed jurisdiction to the length of his buoys, a law passed authorizing the Executive to prohibit by proclamation the entrance into the waters within our jurisdiction of public armed vessels. In 1805, on the murder of Pierce, the power was exercised, and the squadron commanded by Whitby interdicted; and after the outrage on the Chesapeake, the interdiction was extended to all the public armed vessels of Great Britain. The British Government has now promised honorable reparation for this last outrage. It has gone further, and promised to send here a Minister for the purpose of adjusting the differences between the two countries. Believing this promise will be complied with, I am willing to adopt the same liberal construction which was given by the Executive to the promise to withdraw the decrees and orders. I am willing to accept the promise as a pledge for reparation, and to suffer the interdiction of the armed vessels of Great Britain to expire at the end of this session of Congress. It is an act of liberality, and not a strict right extended to that nation. The admission of armed vessels, except in cases of distress, is a matter of favor, and not of right. As a measure of precaution and safety, I believe it would be our interest to exclude them, even after reparation shall be made, and an adjustment of all differences takes place. As this interdiction of the armed vessels of Great Britain, however, was adopted as a measure of retaliation for injuries, it will manifest a spirit of liberality to accept the promise of retaliation and suffer it to expire. If reparation shall be made, no inconvenience or injury will attach to the nation before the next meeting of Congress, when general regulations on this subject may be adopted, extending to the public armed vessels of all nations. If reparation shall not be made, we shall, by our conduct, have afforded irresistible evidence that every branch of the American Government has manifested a disposition to meet in a spirit of liberality and conciliation, the reparation proffered by the British Government.

While thus disposed to meet in a spirit of liberality the offer of Great Britain, let us not take any course calculated to prevent a favorable termination of our differences with France. To continue the attitude taken by the Executive towards this nation appears to be the plain and obvious course. While a negotiation is pending, no measure ought to be adopted calculated to impede its progress. What is the footing on which our affairs are placed with France, under the non-intercourse law, and the power exercised by the Executive under the 11th section of that act? The restoration of commercial intercourse with the one nation, founded on the withdrawal of its decrees and orders, imposes on us an implied obligation to continue the commercial interdiction as to the other. No such implied obligation is imposed as to the interdiction of public armed vessels. No power was given to the Executive on

JUNE, 1809.

Non-Intercourse.

H. OF R.

the subject. No pledge, therefore, could have been given as to the interdiction of the armed vessels of the one or other belligerent. This interdiction depends on a part of the non-intercourse act over which the Executive had no control. In the 4th page of the President's Message, he states "The discontinuance of the orders as they respect the United States, having been thus arranged, a communication of the event has been forwarded in 'one of our public vessels to our Minister in France; with instructions to avail himself of the important addition thereby made to the considerations which press upon the justice of the French Government a revocation of its decrees, or such a modification of them as that they shall cease to violate the neutral commerce of the United States.'" We may presume that the non-intercourse law under which the Executive acted was communicated to our Minister at Paris, and by the Minister to the French Government. To this alone the French Government must look for the footing on which our relations are placed. How do they stand under this law? The President's proclamation restores commerce with Great Britain on the tenth June. The interdiction of French commerce is continued, subject to the controlling power of the President on the event of a withdrawal of the French decrees, and the interdiction of the public armed vessels of Great Britain and France expires at the end of the present session of Congress.

From this communication the French Government had a right to expect—1st. That commercial intercourse was restored between the United States and Great Britain on the tenth of June—2nd. That commerce with France continued to depend on the withdrawal of her decrees—3rd. That the interdiction of the public armed vessels of both nations would cease at the end of the present session of Congress. It could not be presumed by the French Government that after the withdrawal of the decrees and orders of Great Britain, a tender of reparation for the outrage on the Chesapeake, and for a general adjustment of differences, that Congress, in this posture of affairs of the two countries, would re-enact the exclusion of British vessels pending the negotiation; nor could it be presumed that, after the communication from our Government, before the French Government had returned an answer, a discrimination in favor of British armed vessels would be made and those of France excluded. No, sir, until we know what will be the answer of the French Government, let us make no discrimination as to the public armed vessels of those two Powers. We are not pledged to make a discrimination. Let us suffer the law to expire as to the public armed vessels of both, and continue in force only that part which was placed under the Executive control. We know that by the Government of Great Britain the exclusion of her armed vessels while her adversaries were admitted, was considered as an act of hostility. Will not France take the same ground in the event of a discrimination? Are we prepared, in the present situation of this country, before the answer of the French

Government is received, to take an attitude of hostility? The admission of the armed vessels of one belligerent, and the exclusion of those of the other, can only be justified as an act of hostility. It was an act of hostility against Great Britain, and so considered by that Government. It will be an act of hostility towards France, and so considered, I have no doubt, by that Government. To resort to it at the present moment would be an act of injustice towards France.—The means of Great Britain for obtaining information as to the proceedings of our Government are abundant. The British Ministry have had an opportunity of availing themselves of this information, and have of course preceded their adversaries in withdrawing their decrees. France, excluded from the ocean, and possessing no information except such as is transmitted by our public vessels, does not stand in this respect on equal ground with her adversary. Shall we not await the answer of the French Government, and for the present, at least, maintain the ground taken by the Executive? I shall not dwell on the circumstances which produced the interdiction of the French armed vessels; it was produced, however, by the burning our vessels on the high seas. It is true that for this no reparation has been made; it is equally true that, independent of the outrage on the Chesapeake, insults and injuries within our ports and waters have been offered by Great Britain, more serious in their effects on the national sovereignty, than the burning of our vessels on the high seas. If the British armed vessels are admitted while these remain unredressed, while even the affair of the Chesapeake is unatoned for, why shall we, pending our negotiation with France, revive a measure we are not bound to continue—a measure acknowledged by all to be justified only as an act of hostility? No obligation is imposed on the nation thus to sacrifice its interest. Let us extend to Great Britain that species of liberality which is calculated to place no bar in the way of an honest compliance with her engagements. Let us not, under mistaken views of what is consistent, lose sight of our interest. I do not wish to afford ground to either of these Powers for future palliations of their conduct, if either the one Government shall fail to comply with the faith which has been pledged, or the other Government shall refuse to withdraw decrees and orders infringing our rights. If, on the promise of reparation, we suffer this interdiction on the public armed vessels of Great Britain to expire, and reparation shall not be made, the act will appear without a veil to cover its deformity. The British Ministry will not have it in their power to say "we promised to withdraw our orders, to make reparation for the Chesapeake, to send a Minister to negotiate on all the points of difference, and you have revived against us a measure which had expired—a measure which was adopted in a spirit of hostility while our orders were in force, and atonement for the other injuries refused." Nor do I, on the other hand, wish to manifest towards France such a spirit of hostility as to revive against her, while negotia-

H. OF R.

Non-Intercourse.

JUNE, 1809.

tion is depending, a measure which if adopted as to one belligerent is an act of hostility. I am neither partial to Great Britain or France. I wish to remove every obstacle to negotiation with both, and afford them irresistible evidence that peace on honorable terms is the wish of every real American. The non-intercourse system expires by its own limitation at the end of the present session of Congress. Its revival in part does not proceed from a disposition to commence a new system of measures at the present time, but grows out of the power which was exercised by the Executive under the 11th section of the act. Believing that the bill before the House continues our foreign relations on the footing on which they were placed by the Executive, I shall vote against the amendment. Every motive of policy and interest prevents a discrimination between the public armed vessels of the two nations at the present moment. A short period only can intervene before we know in what manner the British Government will comply with the faith plighted by its Minister here. The first arrivals must bring us information as to the disposition of France. Let us not at the present moment adopt any course which may excite on the part of either of those nations, feelings calculated to operate on the depending negotiations. By the combined influence of injustice on the part of foreign nations, and a powerful party united by no common principle but opposition to the measures of their Government, the independence of our country was jeopardized, the advantages obtained by the American Revolution put at hazard. The storm has passed by—the amicable adjustment of our differences with both these Powers may now be considered as probable. Let us put at defiance the denunciations of the partisans of Great Britain or France, and pursue the course calculated to insure to our country the blessings of peace.

Mr. TAYLOR said that he, too, as well as the gentleman who had just sat down, was very averse to changing our ground in relation to the belligerents; and, having a view to the existence of this law, to the particular clause which does prohibit the armed ships of Great Britain from entering the waters of the United States, the amendment proposed by the gentleman from Virginia, if adopted, will be changing that ground, and to the disadvantage of that nation. In what situation do we find ourselves? Commercial intercourse has recommenced with Great Britain by the President's proclamation, but the British armed vessels are yet prohibited from entering our waters. And, notwithstanding the doubts of the gentleman from New York, (Mr. GOLD,) I never had any doubt that the President had not the power to rescind that part of the law.

I am for remaining in *statu quo*. I think it would be dishonorable in this Government to take a step in advance of the position in which we have placed the Executive, and in which we now stand by the arrangement with the British Government. It would not be fulfilling the promises which we have, in our legislative acts, undertaken to perform. On the other hand, it would be

equally embarrassing and unpleasant that we should recede. It would be like placing a General on our frontier, during a war, with an hundred thousand militia; making a truce; and, at the expiration of that time, leaving him to fight his battles alone. I am averse to it. An expression fell from a gentleman from Virginia, that the arrangement with Great Britain, as it now stands, was not complained of by her. The gentleman from New York was desirous of knowing whence the gentleman derived his information. As no complaint has come to this House, or to the Executive, on this subject—because if it had he would have stated it—as to the operation of the first and second clauses, it is a fair presumption, without having any other data on which to form our opinions than merely the circumstance of our not having it reported to us that this was a subject of difficulty, that it is quite satisfactory. Why we should volunteer to smooth the way, I cannot discover. I consider the British Government as perfectly satisfied with the situation which was produced by the acceptance of the offer to revoke the Orders in Council. I would rather say that there are circumstances which would justify the continuance of the first section of the non-intercourse law with relation to the armed ships of Great Britain. I would mention, for instance, the affair of the *Impetueux*; and, as the subject of our seamen marched inland and incarcerated in France has been brought up by the gentleman from New York, I would mention the six thousand American seamen, not only incarcerated, but, more than that, compelled to fight the battles of a country not their own. I do not mention this by way of balancing accounts. I am satisfied with things as they are, and willing they should remain so. But, in fact, I do think, that this throwing up our caps, this rejoicing for our great success, is beginning to rejoice before we have gained a victory. There is a topic which, by the gentleman from New York, in his very liberal mode of discussing a subject, might have been introduced here. I feel pain at introducing it; but it is a duty which I must perform. I ask whether this country is in a more friendly situation in relation to Great Britain than was the Government of Denmark at two particular times? At both of those times, the *sine qua non* was carried to her at the mouth of the cannon. Or, are our relations with that Government more friendly than were the relations between Great Britain and the Porte? The same sort of negotiat materials were used, and the same sort of diplomacy was attempted to be played upon that Government. What would be the sensation of this Government, of the gentleman himself, if this sort of punishment for supposed breach of faith were carried into the harbor of New York?

Sir, promises to negotiate are not promises to settle every subject of difference. Mr. Rose was sent here for a particular purpose. Promises were made that he should come for that purpose. He came and he went away; nothing was done by him. The fact is, that, in our excessive desire to smooth the way to negotiation, we may be

JUNE, 1809.

Non-Intercourse.

H. of R.

smoothing the way to the destruction of this nation. For I should not expect energy from the President of the United States on minor points of differences, where a refusal to concur in a proposed article might occasion the destruction of the principal city of the United States, whose consequence and importance we have so often heard of. It is unpleasant to mention these circumstances on the discussion of this subject; but it really does appear to me, whether this negotiation is to end favorably or not, that it would be policy to adopt, as an irrevocable law of the land, a provision for the exclusion of all armed vessels. The true moral line of conduct which one nation is bound to observe to another with respect to the use of its ports and harbors, is precisely the same as respects the use of its *terra firma*; and the sending or admitting a navy into your waters, unless by compact, is no less a violation of neutral right, or a concession on the part of the Government yielding it, than it would be to send or admit armies on your soil. And although we may not at this time be able, from the disturbed situation of the world, to carry the principle as far as I wish, I hope to see the day when not an armed vessel shall come into our waters, except she come in *hors du combat*, unable to injure any of our citizens.

I have thrown out these observations to show that neither of the propositions meets my idea. But after the proposition now before the Committee shall have been disposed of, I shall move that the 1st and 2d clauses of the non-intercourse act shall also be revived and continued. That course, I think, by excluding both belligerent armed vessels, would be maintaining our ground, and not changing that which our Government has taken in relation to England, nor will it be conceding an iota of our ground in relation to France.

Mr. DANA said that on this subject a general question had been frequently brought into debate. A position was advanced that to admit armed ships into our ports was the same in point of public law, and on the general principles of neutrality, as to admit an army within our territory. However that question may be in regard to public law, said Mr. D., there are reasons why the Government of the United States should pause, should pause long, before it adopts the principle of exclusion of all public armed ships. What, sir! A nation founded in a spirit of enterprise, which has extended its commerce to every quarter of the world, which has risen to a state of prosperity which makes it the second nation in the world as to its commercial marine, which owes its importance to the hospitality of the world—this nation is at once to shut the door of hospitality against all nations!

The proposition, I understand, is, that it would be proper to exclude all foreign armed ships. Let it be recollected that our ships employed in the most enterprising commerce are armed, and have a force nearly equal to the force of public armed vessels. Do we never expect that cruisers will harass our commerce? And do we mean to abandon it, or that our vessels shall be suffered

to perish for want of a port? When our commerce has been invaded in the Mediterranean, our public ships have been received with a hospitality too deeply felt by our Navy and by our Government to permit the adoption of such a principle as that hinted at.

Independently of this, if we ask the question generally of those who are acquainted with the point of fact in relation to public law, and who are versed in the writers on the subject, whether there is not a strongly marked distinction between an army and navy, they will answer you in the affirmative, and will tell you that an army of one nation cannot enter the territory of a friendly Power, without being restricted as to its course, and the limits under which it moves. But, as respects public ships of war, it never was deemed any violation of territory for them to come into port without ceremony, although general usage excludes armies, unless previous permission be obtained. And the name of the thing authorizes this distinction. This, I believe, the gentleman will find to be the correct doctrine which is stated by some of the latest writers on public law, more particularly by those on maritime law. I shall acknowledge the right of every Power, for its own security, to decide that it will not admit the armed vessels of any Power in such numbers as to endanger its peace, or to regulate them when they come into port. But the principle assumed is not the same as announced by writers on public law and explained by the usage of the world. There is a difference between maritime and territorial force. I am not, however, for bringing the subject into discussion at the present moment; I do not conceive that it has a bearing on the question.

As respects the amendment moved by the gentleman from Virginia, (Mr. SHEFFEY,) I acknowledge that to me it does seem peculiarly contradictory in itself to say that the armed instruments of a Government which wrongs us shall be received with open arms, and that the unoffending and inoffensive merchant vessels shall be excluded from our waters. I do not ask whether on this subject there is any contention with the British Government, or whether the arrangements entered into bind us to one thing or the other. For myself I very much dislike the idea of being obliged to resist one belligerent Power because another has ceased to wrong us. The broad principle on which we act should be different. It should be, that our rights we will maintain; and not that we will maintain them in consequence of the desire of any foreign Power.

I am not pleased, sir, with any part of this system of non-intercourse. I think it peculiarly inconsistent to say that there are certain outrages continued, which are such as to induce us to stop all intercourse, and at the same moment to say that the merchant vessel which is the object of belligerent outrage shall be tamely surrendered up to spoil and destruction by armed vessels. For the course proposed I conceive to be this: When a palpable wrong is attempted to be inflicted on you, you permit the instruments of the

H. OF R.

Non-Intercourse.

JUNE, 1809.

outrage to partake of your hospitality. These vessels should certainly be the first objects of our displeasure. I therefore think it highly proper, when you exclude the commerce of a nation, also to exclude its armed ships. The armed ships of one of the belligerents seizes your merchant vessels, plunders them, and imprisons your seamen, and then comes into your waters. A respect to the peace and dignity of our own country ought to carry us so far as not to admit within our waters any vessel guilty of such an attack. It was one of the strongest arguments urged in favor of the prohibitory proclamation of the late President, that the excitement in the nation was so great that, as a measure of prudence, to preserve the peace of the nation, it was necessary for a time to exclude the whole British navy. The very fact of a nation's committing such outrages as to authorize all exclusion of intercourse, I consider a sufficient reason to refuse to it the rights of hospitality. I consider it much more compatible with the principle assumed at the last session of Congress that the proposed amendment should take place. I do not know that the admission of French vessels rests upon any arrangement made at the last session. What was the report of the Committee of Foreign Relations? What the import of all the votes passed by this House? The interdiction of commerce was put down as the consequence of the interdiction of armed vessels. Now it appears to me, that continuing the consequence and putting down the premises would be rather absurd. The report pledged us to the nation and to each other as to the integrity of our own character; it was a pledge on which the world were to rely as to the course which we would pursue when our rights are violated. Though, sir, as respects a nation which declares that it will not submit, if it will not resist without a declaration in words, I very much question whether it will be bound by promises. By this bill, therefore, I contend that the principle of last session, however correct, is very decidedly contradicted, except some such amendment as that which is proposed be adopted.

Mr. RHEA (of Tennessee) observed, that the gentleman from Virginia (Mr. JACKSON) by withdrawing the amendment by him offered, had given particular pleasure; there, then, was reason to have hoped, that the bill under consideration might have passed on without alteration or amendment. This hope is destroyed—another amendment is proposed—it involves two points for consideration: first, whether it be necessary to make an explanatory declaration, that the public ships and vessels of Great Britain and France, are not interdicted from the waters, harbors, and hospitality of the United States by the third section of the non-intercourse law? And whether it be right to discriminate, or, in other words, to admit the public vessels of one of these Powers, to wit, Great Britain, and to keep interdicted the public vessels of the other Power? If the diction or expression of the first section of the non-intercourse law is attended to, and also that of the third sec-

tion of that law, it will appear that the object of the first section is to interdict all armed ships and vessels belonging to Great Britain, or to except France, as therein excepted, from the waters, harbors, and hospitality of the United States. For that purpose the first section declares, "That from and after the passage of this act, the entrance of the harbors and waters of the United States and of the territories thereof, be, and the same is hereby interdicted to all public ships and vessels, belonging to Great Britain or France, excepting vessels only which may be forced in by distress, or which are charged with despatches or business from the Government to which they belong, and also packets having no cargo nor merchandise on board;" and that the object of the third section is to interdict the entrance of the harbors and waters of the United States and territories thereof, to ships and vessels sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either: and for that purpose the third section declares, "That, from and after the twentieth day of May next, the entrance of the harbors and waters of the United States and the territories thereof, be, and the same is hereby interdicted to all ships or vessels sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either; vessels hired, chartered, or employed by the Government of either country, for the sole purpose of carrying letters or despatches, and also vessels forced in by distress or by the dangers of the sea, only excepted." In the first section of the law, the words, "public ships and vessels belonging to Great Britain or France" are used. In the third section the words "ships or vessels sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either" are used. It is observable, also, that the first section requires the interdiction, thereby provided for, to operate from and after the passage of the act, and the third section requires the interdiction thereby provided for to operate from after the twentieth day of May next, that is, next after the passage of the act. The act was approved and became a law on the first day of March, in the year 1809—and, therefore, it may be concluded, that the interdiction provided for by the first section of the law operated on the second day of March next after the passage of the act, that is about eighty days previous to the day on which the interdiction provided for in the third section of the law was required to operate. The different periods determined by the law for the operation of the several interdictions, respectively provided for by the first and third sections, clearly prove (even if there was no other reason) that the interdiction provided for by the first section was designed to operate (as the expression of the section clearly evinces) on the public; that is, the national armed ships and vessels belonging to Great Britain or France: and that the interdiction provided for by the third section, was designed to operate on the unarmed private merchant ships and vessels belonging in whole or in part to citizens or subjects

JUNE, 1809.

Non-Intercourse.

H. OF R.

of Great Britain or France, and sailing under the flag of either Great Britain or France. The term "public ships and vessels belonging to Great Britain or France," used in the first section, and the term "ships or vessels sailing under the flag of Great Britain or France," are not synonymous—they cannot be construed to mean and intend the same description of ships and vessels, for this reason, (if there was no other,) that the law provides and limits distinct periods for commencement of the operation of the interdictions respectively provided for by the first and third sections: if then language is to be permitted to be the clothing or vehicle of distinct ideas, the first section of the law must be construed to operate against ships and vessels of one description or character—and the third section must be construed to operate against ships and vessels of another description or character.

Public ships or vessels are those which properly are denominated national, or belonging to the sovereign. A public ship is national property, national territory, a part (if the expression will be permitted) of the national domain. A public ship is an armed floating fortress of the sovereign, completely equipped, fortified, manned, and directed to maintain and guard the rights of the sovereign owner. A public ship or vessel (in propriety of nautical expression,) carries and displays the proud ensign of sovereignty; it is said to carry the flag or ensign of sovereignty, and is not said to sail under the flag or ensign of sovereignty; the reason is, the public ship goes forth, in the majesty of its owner, to guard and protect the weak, unarmed, defenceless merchant ships and vessels sailing under the flag of the sovereign of the nation, of which its owner is a citizen or subject. The merchant ship or vessel is said to sail under a flag, pointing thereby to the nation of which its owner is a citizen or subject, and manifesting that it sails under the protection of that nation. If, then, the distinction, that a public ship or vessel carries the ensign or flag of sovereignty, and that a private or merchant ship or vessel sails under the flag of sovereignty, be correct, (and there is every reason to believe it is,) it goes incontestibly to prove that the diction or expression of the first section of the non-intercourse law is proper, and clearly defining an interdiction against armed ships and vessels; in other words, the public ships or vessels belonging to Great Britain or France, exclusively;—and that the diction or expression of the third section of the non-intercourse law is proper, and clearly defining an interdiction against private unarmed merchant ships and vessels sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either country exclusively. From these considerations it may be concluded that there is no reason to adopt the proposed amendment on the ground of its being an explanatory declaration.

It may not be necessary to add to what has already been said respecting the other principle contained in the proposed amendment. On behalf of that discrimination in favor of Great

Britain, it has been urged, that the usages of nations, on the broad ground of morality, is to assist, consistently with their own interest, every nation. It would have been more satisfactory, if the gentleman had fully explained what he designed to be understood by the observation—morality of nations! and you apply the observation to the old nations of Europe—what is it? If more particularly it is applied to that nation who first began and continued its unjust oppressions against the United States from the odious stamp act to the present time—what is the conclusion? The inquiry would lead to a recapitulation of all the injuries, outrages, oppressions, miseries, and wars, inflicted by Great Britain on the United States. Many fine things have been said of morality; but how much sorer it is to be deplored, it is a stubborn truth, that the morality of the old Governments of Europe consisted more in theory than practice. To what principle of morality is the past or present conduct of any of the same nations towards the United States to be ascribed? Let the gentleman tell; he appears to know all about it. But it seems that a nation is to act on the broad ground of morality in assisting every other nation, only so far as is consistent with its own interest. With its own interest! unhappy adjunct, unfortunate addition. By this definition of national morality, benevolence, disinterested friendship, and every cardinal, social, manly, noble virtue, is excluded from the morality of nations—consistent with its own interest. Great Britain then, whose apologist, Mr. R. observed, he would not say the gentleman had tried to be, extends the hand of friendship to the United States, but it is only so far as may be consistent with her own interest. So, then, a wonderful discovery is made—of what? Why of that only, which every gentleman in the House knows—only this, that Great Britain acts exclusively for her own interest; and this is the broad, boasted ground of morality on which Great Britain always has acted, and will, if able, continue to act on towards the United States. And is this the strong, cogent, all convincing, all concluding reason in virtue whereof the propriety of discriminating in favor of Great Britain is urged? A considerable quantity of time has been consumed in endeavoring carefully, sedulously, and closely to elucidate hypothetically the morality of the old nations of Europe. Away with such visionary theory; come to plain matters of fact; tell and state things and facts as they are, and argue from them as existing; that species of reasoning, which is bottomed on *ifs* and suppositions, will never do much honor to the political reasoner.

But it may be asked, does the definition alluded to mean and intend that, on the broad ground of morality, it would be proper that the United States do assist Great Britain, and join in the war against France? And for that reason, to admit the public ships of Great Britain, and to exclude the public ships of France? Will that mode of proceeding be consistent with the interest of the United States? If it be so, it has yet to be proved, and it is not assumed that any gen-

H. OF R.

Non-Intercourse.

JUNE, 1809.

tleman of this Committee thinks so. If it be otherwise, let the declaration be made, and then it will be known how to answer it.

Great Britain is bound in justice and honor to carry into complete effect the express and implied conditions in the late negotiation had at the City of Washington. It is urged that that Power will recede from the late Orders in Council declaring a great part of the Continent of Europe in a state of rigorous blockade. It is earnestly hoped that Great Britain will recede. So far as respected France and the dependencies of France, Great Britain certainly ought to have confided in the honor, justice, and magnanimity of the United States, in this, that the United States would have continued the non-intercourse system as defined in the law, in full force, effect, and operation against France, until France will have rescinded her decrees violating the rights of the United States. Great Britain has not so confided in the United States, but has assumed to herself, in this case, to act on the alluded to "broad ground of morality, consistent with her own interest." If Great Britain had acted on the true principle of morality, she would have waited until the result of Mr. Oakley's mission was known, and not have issued those blockade orders. The same late blockading orders do virtually take away the necessity of continuing the non-intercourse law against France, for this plain reason—the non-intercourse law interdicts all commercial intercourse with France. The late Orders in Council go to prevent all commercial intercourse between the United States and France. The blockading orders of Great Britain and the non-intercourse law of the United States act, as they relate to France and her dependencies, on the same subject. Both are not requisite, therefore; the late blockading orders of Great Britain have superseded and virtually taken away the force of the law of the United States interdicting commercial intercourse with France and its dependencies. It will not be denied, that Great Britain was well informed of the principles of the non-intercourse law, previous to the issuing of the same late blockading orders. It is desirable then that attention be given to these facts, and to get clear of them, rather than be descanting on hypothetical visions, which being compared with matters of fact, are like the sounds of a tinkling cymbal.

But it is urged on behalf of the amendment "that the act of an individual cannot, if disavowed, bind a nation;" and "that a nation is not bound to surrender the individual who committed the disavowed act unless he be demanded." On what principle of moral justice are these assertions made? They are, too, of the left-handed, crooked, vicious principles of that deceptive, wicked policy, which has never failed to destroy a nation. A nation may disavow the hostile act, but it is bound in justice to punish the individual who, in violation of the orders and laws of his own Government and in violation of the laws of public reason, perpetrated the hostile act; or to surrender him to the injured nation, although no demand of him be made. Let, then, all such unjust, decep-

tive, illusory assertions be omitted in reasoning and argument. Let Great Britain have the labor of justifying her own conduct. The sovereign people of the United States require the honest execution of the abilities of their representatives on their own side of the question, not only as the question relates to Great Britain, but to France also. It is incumbent on every nation to take care for itself. The nations of the old world are taking care for themselves, and it is presumed the United States will proceed in the adoption of measures which will eventually secure their peace, happiness, and prosperity.

Mr. Cook spoke in favor of the motion.

On motion of Mr. VARNUM, the Committee rose—53 to 38; reported progress, and obtained leave to sit again—57 to 51; those opposed to sitting again being in favor of continuing the discussion in the House, with a view to obtain a greater attention to it than was paid in Committee, many members being absent during the debate.

SATURDAY, JUNE 24.

On motion of Mr. VAN HORN, the Clerk was directed to procure a Clock for the use of the House of Representatives, and to cause it to be placed in some convenient part of the Representatives' Chamber.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making appropriations for defraying the expense of stationery, printing, and all other contingent expenses of the Senate and House of Representatives, during the present session of Congress, and an additional appropriation for the purchase of books, maps, and charts, for the Library of Congress," with an amendment; to which they desire the concurrence of this House. Also, a bill, entitled "An act freeing from postage all letters and packets from Thomas Jefferson;" to which they also desire the concurrence of this House.

Mr. JOHNSON stated that he had been requested by a committee of the House to make a motion that the House should come to the following resolution, to which he hoped there would be no objection:

Resolved, That, if Congress shall not be in session on the fourth of July, the citizens of the District of Columbia shall be permitted to occupy the Representatives' Chamber, for the purpose of attending the delivery of any discourse prepared for the celebration of that day.

The House agreed to consider the resolution—55 to 17.

Messrs. LEWIS, QUINCY, and LYON, opposed the resolution, on the ground that this Hall should be set apart sacred for legislative purposes; that the furniture might be injured by indiscriminate admission of persons; and that it would be improper in this House in any way to give encouragement to any party celebrations of that or any other day.

Messrs. JOHNSON, BURWELL, COOK, and SMILIE, supported the motion. They observed that

JUNE, 1809.

Contested Election—Batture at New Orleans.

H. OF R.

no building reared by mortal hands was too sacred for the celebration of that day; that there was no intention to foster party spirit; and that sufficient reliance might be placed on the good order of the citizens that they would not injure the furniture of the House.

Mr. VAN HORN rising to oppose it, Mr. JOHNSON withdrew it, to avoid occupying the time of the House with it.

Mr. COOK renewed the motion; but the House refused to consider it.

CONTESTED ELECTION.

The House refused to go into Committee on the non-intercourse bill; and

On motion of Mr. FINDLEY, the House resolved itself into a Committee of the Whole on the report of the contested election of WILLIAM BAYLIES—ayes 56.

Before the report was read, Mr. DANA moved that the Committee rise, under a belief that time had not been allowed for the consideration of the report; he wished not to be driven in so great a hurry to the decision of so important a question, which it was impossible to decide without mature consideration.

Mr. BURWELL observed that it was for the purpose of consideration alone that the House went into Committee; that it could not be expected the Committee could rise immediately after they agreed to go into Committee; and that if a disposition was manifested to drive the House from the consideration of the subject, it might produce a counter-determination to persevere in it.

Mr. DANA, observing that he had no desire but for a fair consideration, withdrew his motion.

The report was then read, concluding with a recommendation of the following resolutions:

“Resolved, That the election held in Plymouth district, in November last, was legal and proper.

“Resolved, That William Baylies is not entitled to his seat.

“Resolved, That Charles Turner, junior, is entitled to a seat in this House.”

Mr. FINDLEY moved that the petitioner, Chas. Turner, may be admitted to a seat in the House during the discussion. Agreed to without debate and without opposition.

A motion was made by Mr. TAYLOR, that the Committee rise, and report progress. His object was to move a resolution for a postponement of the further consideration of the subject until next session.

This motion was supported by Messrs. TAYLOR, TROUP, PITKIN, SHEFFEY, LIVERMORE, BAYLIES, WHITMAN, ROSS, and LYON, and opposed by Messrs. RHEA, J. G. JACKSON, BOYD, HOLLAND, TURNER, (the petitioner,) VARNUM, and LOVE.

The arguments which appeared to be most relied on by the mover of the postponement, and those who spoke on the same side of the question, were, that the depositions and testimony taken in this case, although it was admitted that reasonable notice was given to the sitting member, who did not attend, were taken under the authority of no existing law, and were not such as

would govern a court of justice; that the sitting member not having attended at the time of taking the depositions, from the belief that they were illegal, the testimony was wholly *ex parte*, and however decisive it was admitted by some gentleman to be, was not such as, in candor or justice, the House would decide on without permitting the sitting member to bring testimony to rebut it.

To this, it was replied that, for several years, there had been no law prescribing the mode of taking testimony in cases of contested elections, in the course of which time several contested elections had been decided by the House on testimony taken under no law, but under the guidance of common reason; that, during the first session of the last Congress, the seat of Mr. Culpeper was vacated on testimony undoubtedly taken in this manner, and under no express law; and that the House having heretofore, in various cases, decided in this way, it was not to be expected that they would, in this instance, desert the principles on which they had acted.

Other arguments, however, founded on facts stated by the sitting member, and the petitioner, were introduced into the debate, by gentlemen speaking on both sides of the question, to support their respective opinions.

The question, on the Committee's rising, was taken about five o'clock, and carried—58 to 33.

The Committee were refused leave to sit again—ayes 33.

MONDAY, June 26.

BATTURE AT NEW ORLEANS.

Mr. SHEFFEY, after a speech of some length, in the course of which he examined the title to this much contested piece of alluvion, moved the following resolutions:

Resolved by the Senate and House of Representatives, &c., That the President of the United States be requested to cause the several persons who were removed from the batture of the suburb of St. Mary, in the city of New Orleans on the 25th day of January, 1808, to be restored to the possession thereof; to be held with the same rights with which they respectively held the same immediately prior to such removal, any subsequent act or thing to the contrary notwithstanding.

Resolved by the Senate and House of Representatives, &c., That if the President shall be of opinion that the United States have such a legal claim to the batture opposite the suburb of St. Mary, in the city of New Orleans, as will justify the expense of prosecuting the same, he be authorized, with the consent of the parties removed therefrom on the 25th day of January, 1808, to name three referees, who shall have full power to hear and finally to determine all right, title, claim, and demand whatsoever, as well of the United States as of the parties removed, both in law and equity, and their award or that of a majority of them shall be binding as well on the United States as the said parties.

Resolved, That if the President of the United States shall deem it most expedient, he may compromise the conflicting claims of the United States and the persons removed from the batture of the suburb of St. Mary, in

the city of New Orleans, and cause the same to be tried in a court of the United States, in such manner and at such place as will secure an impartial trial.

The House agreed to consider the first resolution, ayes 67.

A motion was made to refer it to a Committee of the Whole; which after debate, in which Messrs. LOVE, POYDRAS, SMILIE, DANA, TROUP, and BIBB, participated, was agreed to, 60 to 21; and it was made the order of the day for to-morrow.

The House agreed to consider the other resolutions, 48 to 41; which were referred to the same Committee.

NON-INTERCOURSE.

On motion of Mr. SMILIE, the House resumed the consideration of the report of the Committee of the Whole, on the bill from the Senate, to revive and amend certain parts of the act interdicting commercial intercourse; the unfinished business of yesterday (the report of the committee on the contested election of William Baylies) having been ordered to lie on the table, 58 to 46.

The Committee of the Whole were, on motion of Mr. J. G. JACKSON, discharged from the further consideration of the non-intercourse bill, ayes 70.

Mr. J. G. JACKSON said he found that there was in the bill no provision authorizing the departure of vessels charged with public despatches for France, and therefore moved such an amendment.—Agreed to without opposition.

Mr. SHEFFEY observed that when the bill had been before the committee he had the honor to move an amendment which he now renewed as follows: "And provided also, that nothing therein contained shall be construed to prevent any public vessel from entering the waters and harbors of the United States, belonging to any nation with whom commercial intercourse shall be permitted."

Mr. J. G. JACKSON moved to amend the amendment by adding to the end of it the following: "Whenever a full and satisfactory adjustment of our differences shall have been made with such nation."

Mr. DANA said the amendment moved to the amendment of the gentleman from Virginia (Mr. SHEFFEY) went to give a construction to the bill which would operate as a complete exclusion of the vessels of both Powers until a satisfactory adjustment of all existing differences shall have taken place. What, said Mr. D., is the situation in which we are now placed? On what principle is it that British ships were first excluded and on which their exclusion was confirmed by the non-intercourse law? They were originally excluded by the proclamation of the President of the United States in consequence of the attack on the Chesapeake. The President of the United States now in office has declared his acceptance of the proffered terms of satisfaction for that outrage. And, after that, is it proposed that we shall continue the measure of hostility when the cause alone which led to it is completely done away? I should suppose that in the very act of adjustment, which took place between the

British Minister and the American Secretary, it is implied that we should do nothing further on this subject. The President of the United States has accepted the satisfaction offered; he has declared those terms, when performed, to be satisfactory. And are gentlemen considering the restoration of the seamen taken from the Chesapeake as a reason why we should continue the interdict? If we examine this subject fairly, the great principle of reparation was a disavowal of the claim to search our armed vessels, and a homage to our rights. That matter must be deemed to be settled, if the President of the United States had authority to settle it. If the President had not power to settle it, this furnishes strong evidence that the vote of approbation of his conduct was a proper proposition.

As to the interdiction by the non-intercourse act, I apprehend that was founded on the violation of our neutral rights by the belligerent Powers, the President of the United States being authorized to renew trade whenever the edicts violating our lawful commerce should be revoked. Whether or not the President has done right in accepting the assurance instead of the fact, gentlemen have considered it unnecessary for them to express any opinion upon it. If there be no edict affecting our lawful commerce in force by one belligerent, the interdict is at end in point of fact in relation to that one. The question of the affair of the Chesapeake is settled, if the President had power to settle it; and as to the other cause of interdiction, the President has declared that the British orders will have been revoked on the 10th of June. Has the President acted correctly or not? If he has acted correctly in taking the assurance for the fact, the very principle of the non-intercourse is at an end as respects one of the belligerents, and there can be no ground for the exclusion of British armed vessels.

Mr. TAYLOR said he thought the gentleman from Connecticut used the word hostility in relation to this measure of including British armed vessels from the United States. Now, I believe, sir, said Mr. T., that if we go to the opinions entertained, not by the President of the United States, but entertained and expressed in the very foundation of the arrangement which was made, it will be found that the very hostility intended to be produced by the President's proclamation ceased at the moment when we passed the non-intercourse act in which we excluded the vessels of both the belligerents. The hostility was in the admission of the armed vessels of one, and excluding those of the other. It ceased by the non-intercourse law, and so satisfactory was this law of the last session, that it was the very foundation on which the overture was made which ended so much to the satisfaction of this nation. So that, in fact, when we perpetuate the order of things produced by that act, we do not perpetuate the state of things produced by the interdictory proclamation of the late President. It was matter of satisfaction to the British Government, as expressed by their Minister here, that the quality of hostility in the exclu-

JUNE, 1809.

Non-Intercourse.

H. OF R.

sion of her vessels was taken away by the non-intercourse law. Have we promised, in the negotiation which has taken place, that we will commit an act of hostility against France for the boon which we have received from the hand of Great Britain? No, sir; and yet, if we take the definition of Mr. Canning, as to excluding the vessels of one belligerent and receiving those of the other, according to the mode proposed by the amendment, without the sentence moved to be admitted to it, it will in fact be agreeing to go to war with France. According to the opinion of Britain, promulgated not only to this Government but to the world, according to the demonstration made by the British Government, you will undertake a measure of active hostility against France; for what? For any great boon that this Government has received from the hands of Great Britain? No, sir. If all the promises were fulfilled to their full extent, we should then receive but justice at her hands. It was acknowledged, too, in the discussion which took place, that any nation, particularly a neutral nation, has a right to exclude the armed vessels of both belligerents; but that, on the contrary, the state now proposed to be produced, the exclusion of one and admission of the other, is an act of hostility to the party excluded. As I would not be compelled by the utmost ill usage by either belligerent to take part with the other against that one, neither will I take a consent or refusal from one or the other to do us justice as a motive for alliance, or a war which shall compromise our neutrality. I now speak of both, for both have used us as ill as was in their power. As kicks and cuffs have not compelled us to take part with them, neither shall caresses or fawning, for we will mete out an equal measure of justice to both. I consider the state of things produced by the non-intercourse as totally distinct from that produced by the proclamation of our late illustrious President.

But it is a little extraordinary that we are called upon to volunteer in this business, in what, according to the doctrine of the British diplomats, is war against France, without any requisition made by the British Minister here, or any hint given that this step is necessary or proper. I have seen none such, and therefore conclude that there has been none. And, in point of candor, if the treaty-making power does suppose that it will be of advantage that this step should be taken, it would be right that we should hear from him. As we have not heard from the President on this subject, it is a fair conclusion that he does not suppose it will be of advantage, but of disadvantage to him.

Another thing, sir. The British Minister's not applying in form might thus be construed. We know that he (Mr. Erskine) is an honorable gentleman, one who will act with the utmost candor towards this Government. Now as some nations are in the habit of using *Grotius*, *Puffendorf*, and all the other writers on public law as engines of diplomacy, in fact, of using vellum, parchment, paper, and books, for the purpose of

producing friendly arrangements with those Governments with whom they come in contact, so other nations will use a different mode. And if the British Minister recollects the course of conduct pursued by one great nation in their manner of managing diplomacy, it would be very candid in him not to ask you to produce such a state of things as his Government might take advantage of. I believe, if he knew that such was the mode in which the pending negotiation was to be carried into effect, that he would not ask it. I am sure he would not.

I think it is the best way to continue things precisely in the state in which they were when the arrangement was made; and that more cannot be asked, either as respects the justice due to Great Britain or fair play to the officer managing the negotiation.

Mr. FISK.—It was my intention not to have troubled the House with any remarks on the bill now under consideration. I could readily have reconciled it to my feelings to have given a silent vote in favor of the bill, had not so many and various objections been made against it. But as it seems to be objectionable, and susceptible of so many amendments, in the opinion of so many gentlemen, the House will indulge me, while I offer the reasons which will govern my vote.

This bill, for which we were convened, has, during the time we have been here, received as yet but a small portion of our attention; and it is so important that upon its passage, and the principles it shall embrace, may depend the destinies of our country. It deserves our immediate and most serious attention. I hope it may be coolly and dispassionately examined, and treated according to its real importance. Its principles have been carefully and scrupulously investigated by the committee who reported it, or a bill similar in its provisions, of which committee I had the honor to be a member.

The language is plain; public ships are not interdicted. There is but one question to be decided in disposing of this bill, and that is respecting public ships; for I believe all will agree to renew the non-intercourse act as respects France. The question is, what regulation shall we make respecting public ships, and one of three courses is to be pursued? Shall we exclude both, admit both, or discriminate?

There are many who would be willing to exclude the armed ships of every foreign Power from our harbors and waters. And considering what we have suffered by admitting them, it may be well questioned whether it would not be the best policy of this nation to interdict them by a permanent law; yet many gentlemen object to this, as being inexpedient at this period. It is said, and it is the principal argument urged against it, that it might embarrass our impending negotiations with Great Britain to interdict her public ships by this act. As I feel as much disposed for an amicable adjustment of our differences with that nation as any member of this House, and would be as unwilling to embarrass the negotiation, I would not insist on this interdiction.

H. of R.

Non-Intercourse.

JUNE, 1809.

It is also said that England has made reparation, or agreed to make reparation, for the aggression which caused the interdiction of her public ships, and that as the cause no longer exists the interdiction should cease. *Be it so*; and may we never have fresh cause to renew it!

But, say gentlemen, we must not now recede from the ground we have taken with respect to France, we must discriminate. Let us for a moment view the ground we have taken—not only as relates to France, but England also.

We are not at war with either of the belligerents. Our Ministers at their respective Courts are endeavoring to negotiate, and by negotiation to obtain redress for the injuries of which we complain, and whatever precautionary measures we might adopt would not be deemed a violation of our neutral character, so long as those measures were equally applicable to both the belligerents. We could not be deemed to have taken part with either to the prejudice of the other, while no other was benefited by our measures. While British public ships were interdicted, and our embargo existed, an offer was made to both the belligerents to resume our trade—the same equal terms were tendered to both. The nation refusing is left without a cause of complaint against us, for resuming our trade with the nation accepting the offer.

Before either nation does accept, America changes her position. The embargo is abandoned, and a general interdiction of the public ships of England and France, and a non-intercourse with these nations and their dependencies is substituted. By this non-intercourse act, the particular interdiction is merged in a general regulation. This was to exist until the end of the next session of Congress only. This was virtually saying, that the proclamation interdicting British public vessels from our waters for a particular aggression shall be revoked; and a general municipal regulation, over which the President shall have no control, shall be substituted in its stead. It was then, in order to preserve our neutral character, necessary that this rule should embrace both the belligerents. It may be said, and has indeed been frequently said, that the reason of extending this restriction to France, was her having burnt our vessels and imprisoned our seamen. But never, at least in the history of diplomacy, have cause and effect been more distant and unconnected. France, on the high seas, burns our vessels, and in her own territories imprisons our seamen. We, at the distance of three thousand miles, interdict our ports and waters to her public ships, which do not or dare not come within five hundred leagues of the line of our interdicted territory, and this is to retaliate for the aggression. Can this interdiction be defended on this ground? It cannot. There must have existed some other reason. It was to preserve our relations with the belligerents in that state that should be consistent with our professions of neutrality.

Had the interdiction been confined to British vessels by this law, what would Great Britain

have said to this discrimination? In vain might we have told her that we meant to preserve our neutral character, and not to take a part with her enemies in the war against her. Our acts would have been directly opposed to our professions. With this discriminating, permanent, municipal law, could we expect Great Britain to treat with us as a neutral? If we did, we should be disappointed. If, then, it be inexpedient to make this discrimination against Great Britain, how is it less so, when directed against France? We are to admit British and exclude the French. And, are we to endeavor to negotiate, as neutrals, with France, upon this ground, with any reasonable prospect of success? It is desirable that the commercial intercourse between this country and France should be restored. Peace and free trade is the interest and the object of America. While we throw wide open the door of negotiation to England, why should we shut it against France? While we facilitate negotiations with the British, why should we embarrass and prevent the same with the French? I wish to leave the Executive and treaty-making powers of our Government free and unshackled, to enter on negotiation with both these Governments, under every advantage of success which we can give. On what ground can this discrimination be defended? You adopt this measure. Our Minister at Paris is requested to explain it. Is there any advocate for this discrimination in this House, who can conceive the grounds upon which our Minister or our Government are to justify this measure with our relations of neutrality? It cannot be defended. I am not for yielding to either nation, but, let our conduct be consistent, impartial, and defensible. If then, we are to be involved in a war with either, the resources of the country and the hearts of our citizens will support the Government, and we need not be afraid of the world. But those men, or that Administration that will, upon a mere useless, punctilious point of etiquette, commit the peace and happiness of this country to the ravages of war, will meet the indignation, and feel the vengeance of the intelligent citizens of the country. This temerity would meet its merited punishment. The people of America can see, and will judge for themselves; they can readily discern the difference between shadow and substance; they are neither to be deceived or trifled with, especially on subjects of such immense moment to their liberties and happiness.

Let me ask gentlemen what possible benefit is to result to this country from this discriminating resolution? Is it to keep the scene of naval action at a distance from our territories? During the late war, no naval engagement has taken place between these Powers, in our waters, unless it was the combat between the Ambuscade and Boston, in 1794, off New York. None is to be apprehended. As well might we apprehend that the Continental Powers would make Louisiana the theatre of action. It cannot be required to secure us from a danger so remote as renders it a subject of neither fear nor probability. Is it to

JUNE, 1809.

Non-Intercourse.

H. OF R.

prevent trespasses and aggressions? Let those who have seen the public ships of France on our coast during the late revolutions, say whether danger is really to be apprehended from this quarter, especially when we reflect on the state of her naval force. For what purpose is it, then, to be adopted? No good can, but much evil may, result from it. Will any one say that our relations with England require it? None acquainted with the views that Government has of the subject can say so. America complains of the restrictions of her trade by the orders and decrees of the belligerents. France and England retaliate upon each other this system of restriction, and both call on America to resist; but, how? By interdicting our waters to their public ships? No, truly; to restrain this unwarrantable system of warfare by those means which we command, and which may operate upon the interests of the aggressor. What are these? Interdicting their public vessels from our waters? No; how would this affect France? She has no occasion for our hospitality. It never could be considered an object with her that we should deny to her the use of that which was neither asked for nor wanted by her. This measure could never be deemed, either by England or France, a measure of resistance to their blockading decrees. It would, and must be absurd and ridiculous, if contended for in this point of view. How has resistance been wished? By restrictions on our trade. In this way, and in this only, can we affect the interest of the aggressor. A non-intercourse is the only effectual means in the power of America to resist these unjustifiable orders, unless we take an active part in the war, which is neither required nor to be expected, at least, by either of the belligerents.

Our trade is the engine by which we are to raise these orders. But, we shall recede without cause from the ground we have taken, it is urged. Why have we receded from resisting British orders? We have a promise. Have we not the same from France? The Milan Decree was founded on the orders of the 11th of November. When these are repealed, the basis of this decree is gone. Is nothing due to this declaration of the French Government? Shall we not wait a moment, to see what course will be now pursued by the French Government after the relaxation by the British? What is the benefit, which, in every possible case, is to result to us from this discriminating restriction? None. Much evil may. It may break up our negotiations with France, and in all probability will; for, it can neither be explained or justified by any national expediency or diplomatic ingenuity.

Perhaps a negotiation is now in train with the French Government, and a messenger may be on his way, with despatches, to this country.

The French Minister here, finds us discriminating between the British and his own Government, and to the expense, if you please, of the latter. Would he feel himself authorized to proceed, without further and additional instructions? Surely not.

If gentlemen wish for peace upon honorable terms; if they will not, for a punctilio, sacrifice our neutral character, I hope they will unite in favor of this bill.

The advocates of this bill may be charged with being under French influence; but, my own views and feelings justify me against this imputation. My God, who knows my heart, knows that instead of cherishing I deplore, and, as sincerely as any one, deprecate foreign predilections.

The Senate, the treaty-making power, have passed this unanimously, and after much deliberation. This consideration has great weight with me; for, the subject of this bill is under the control of the treaty-making power. A subject of this nature and moment, would never have passed the other branch of the Legislature without deep and mature reflection. Having thus passed, and unanimously, can we expect they will agree to the proposed amendment, which changes the very nature and principles of the bill; and, if they should agree to it, that the President, who, I repeat, cannot justify it in his diplomatic instructions, would sanction the law?

If this bill should not pass the three branches, and we thus abandon the ground we have taken, can we expect our negotiations with England will progress to a favorable termination? We are, as a nation, pledged to continue the non-intercourse with that nation which continues her orders; but not so with the interdiction of public vessels. One is a municipal regulation, the other a public law?

To the amendment, I am decidedly opposed. I hope we may pass the bill as it came from the Senate. I am prepared to vote for it, and I have taken the liberty of stating some of the reasons which have operated on my mind. I have gone into them more at length than I intended. The House will consider the principles of the bill very important, and in this consideration may, perhaps, find an apology for the time I have claimed their indulgence.

Mr. BURWELL said he deemed it in some degree his duty to make some remarks on the bill before the House. He intended to vote against both the amendments proposed to the bill. I think (said Mr. B.) that if my colleague who moved the first amendment (Mr. SHEPHERD,) had taken that view of this subject which might have been presented to his mind, he would not have found such error in the course proposed to be pursued. He seems to have taken another ground, when by the clearest demonstration it might have been shown that the system proposed is one of impartiality to the belligerent Powers of Europe. It will be recollected by gentlemen of this House, that at the time the exclusion of French armed ships took place, it was upon the express ground that the British Government objected to come to an accommodation with us, because we excluded her vessels and nominally admitted those of her enemy. On that ground I venture to say that the exclusion took place; because, at the time that it took place, it was considered a measure absolutely favoring Great Brit-

ain, yet not injuring France by a nominal prohibition of the entrance of her vessels. It was stated that there was not perhaps in the course of a year a single French public armed vessel in the harbors of the United States. Have we any French frigates now in our seas? None. Is there any probability that there will be any? No, sir; for France having now lost her West India islands, if her vessels are freely admitted, it is probable that there would not, in the course of five years, be a single French vessel within our waters. As the exclusion would be perfectly nominal, I would not adopt anything to prevent a settlement of our differences with France. I am not now sanguine in my belief that we shall settle our differences with her; for every one acquainted with that Government knows, I fear, that it is not to be diverted from its object by any arrangement we may make. But I would do away every possible justification that could be urged by France for not meeting our overtures for peace. This conduct would produce at home more union among our citizens; and, when our rights are attacked without a pretence for their infraction, there can be but one sentiment in the nation. I have always determined to admit British vessels as far as my vote would go; and should the House determine to exclude French vessels I should still vote for the admission of English vessels, because their former exclusion has been so artfully managed by the British Government, and the doctrine has been so admitted by the presses in this country, as to give rise to the most unjustifiable conduct ever pursued by one nation towards another. As to the idea advanced by the gentleman from South Carolina, (Mr. TAYLOR,) that, if we do admit them to take possession of our waters, they will take advantage of the privilege to our injury in negotiation, it has no force with me, for this plain reason; that, although the exclusion of them from our waters was not carried into execution by physical force, yet they did not enter our waters, which they might have done, in defiance of the proclamation. And why did they not? Because, I presume, they had no desire to rouse the indignation of this nation by an open violation of the laws of the land.

If, sir, you wish to gain the advantage of union at home, take away every pretext for the violation of your rights. Let me ask if it be not better to admit them? By so doing you give up a principle which does not benefit you, and receive an accession of physical strength by union at home. I do not say that every one will be satisfied, because I have no doubt England has agents in the country, but so few in number as to be unworthy of notice. If Great Britain, on the other hand, attacks us when we have taken away every possible ground of collision and violates her promise, the people in every part of the country will be satisfied that her deliberate object is to destroy our commerce. We should have no more of those party divisions which have distracted us for some months past.

It cannot be said that we are bound by any part

of the negotiation to admit English vessels. I have seen nothing of the kind, if it exist; and I call upon gentlemen to point it out. Why do it, then? It may be considered a concession; and certainly manifests that disposition which we feel to settle all the points of difference in agitation between us. And here I beg leave to say that, according to the most explicit declarations of the British Minister, you would not give the smallest umbrage by pursuing that course. On this subject Mr. B. quoted a speech of Mr. Stevens in the British Parliament. If we were to be governed by reference to expressions which existed in that country of our partiality to France, it did appear to him that this speech was entitled to weight, because it justified the course proposed by the bill, and stated a position which the British Government admitted was all that could be required from a neutral State. From this speech it appeared that placing the two belligerents on an equal footing was all that was required. Did not this bill completely come up to their wishes? Did it not interdict all trade with France under the most severe and heavy penalties? Mr. B. said he did not wish it to be understood that he would shape his conduct by the wishes of the British Ministry; but, as it had been said that the bill was somewhat hostile to that country, he had quoted the speech of a ministerial member to show that no such inference could be drawn. The same person, in his speech, also states, said Mr. B., that the reason why our offer in August last was not accepted, was, that, if it had been accepted, such was the situation of the law, that a commerce might always be carried on with the enemy; that, through the ports in Europe, her enemy might be as efficiently supplied as if the embargo did not exist in relation to him. But, sir, what is now the state of things? If it is possible to operate on France by commercial restrictions, let me ask if this bill will not accomplish that object? Let me ask if an American vessel under it can go to any port of France? It not only cuts off direct intercourse, but prohibits the importation of the products of France; and any attempt to carry on a circuitous commerce must be ineffectual, inasmuch as the produce will be liable to seizure when it comes into the ports of the United States.

If, according to the ideas of the British Government itself, this state of things be a sufficient resistance to France, let me ask of gentlemen how they can infer a partiality to France? What more can you do? If you exclude the armed vessels of France, though it may display a disposition to injure her, I defy any gentleman to show that it can, in the smallest degree, coerce or affect her. Let me call the attention of gentlemen to the present situation of Europe. If accounts lately received are to be credited, we may calculate on the universal control of the French Emperor over the ports of Europe. Is it to our advantage to be excluded from the trade of the Continent? Is it not known that all the surplus product of the agriculture of this country finds its vent on the continent of Europe? Is it not known that, of

JUNE, 1809.

Non-Intercourse.

H. OF R.

the whole of our tobacco, seven out of eight parts are consumed on the Continent? That of our cotton, at least one-half finds its market there? Does not flour find a great proportion of its consumption on the Continent? This cannot be denied. Then, let me ask of gentlemen, whether it be so much to our advantage to exclude this trade; and, if not, why we should take a step which can do France no injury, but which may, and probably would, be made a pretext for cutting off so valuable a part of our trade? With respect to partiality to France, let me call upon the gentleman from Virginia, or any other, to show if, from the conduct of the United States, any such thing can be inferred. Look at our relative situation. Have we opened our ports to her traders? Have we renewed commercial intercourse with her? Let me ask, which have we placed in the best situation, France or England? Every gentleman must answer—England. Whilst she gets all our commerce, her enemy is wholly excluded from any participation in it.

There is another point of view in which this subject may be considered. So far as French commerce is excluded, I contend that it cannot be cause of war, because you have a right to restrict your commerce in any manner you please. If France will not trade with you on liberal terms, you have a right to say that you will not trade with her at all; and this would not be cause for war, or an act for which she could, in justice, attack you. What was the non-importation act as to England? Not an act of war, not an act which she has any right to resent; it was a mere municipal regulation. Apply the same principle to France. If she will not permit intercourse on terms of liberality and reciprocity, you have a right to prohibit intercourse partially or generally. In so doing, no man would have the hardihood to say that you had commenced the controversy with France. But one sentiment on the subject will pervade the country, and that will be resistance. It strikes me, sir, that, if the House were disposed, *instantly*, to go to war with France, they should take the course pointed out by the amendment. I acknowledge that the conduct of that nation does justify war; that is to say, that many a war has been commenced since the foundation of the world, with less provocation and for less cause. But it ought to be observed that we are a peaceful nation; war is not congenial to our habits. The point of view in which I consider the subject, is, that if you exclude French armed vessels now, they must consider you as having commenced a war with them. If you are for war, and think this the proper time to commence it, make this discrimination. Let me ask gentlemen whether the partial exclusion of British public vessels, in the first instance, and their total exclusion, in the second instance, were not produced by outrages within our waters? Certainly. And is not the probability of the repetition of them now as strong as ever? Unquestionably it is; and so far the admission of British armed vessels may be considered a concession. On this subject of partiality to France, I will observe, that I believe that

a great part of the hostility of the British Government to this country has been produced by this charge made here, in the first instance, and repeated there; and that gentlemen anxious to prevent a war with Britain, have done more to accelerate it by this charge, than by any course of conduct which they could have adopted. Is it not within the recollection of every gentleman who has attended to the politics of this country for eight years past, that this cry has been as strong throughout, as it has been during any period of the existence of the embargo? From 1796, down to the present day, a part of the people of this country have been charged with French partiality; and when the change of Government took place, which stationed us at the head of it, the papers teemed with the assertion that we were partial to France. For myself, I believe that a great part of the hostility of the British Government towards us has grown out of the unfortunate state of parties in this country. When the charge of partiality to France is considered, it must strike every one as the most absurd and unfounded that could be urged. Let gentlemen look at their neighbors, friends, and connexions, whom they have thus accused, who have so much at stake in the country, and how can they reconcile it to themselves to conceive that they have any attachment to any foreign country? A particular species of papers of this country alone circulate in England. From these the Ministry derived their information; and any person reading them, must suppose that a great portion of the citizens of this country are devotedly attached to France, caring nothing for their own country. It is not, therefore, surprising that this jealousy has existed in Great Britain.

During all our differences with the British Government, it has always been in the power of that Government to renew commercial intercourse with us, without a sacrifice of a single right. I have thought that we were rather disposed to yield rights of importance for the sake of accommodation. You have given up various claims, and yet, when we were struggling for the abandonment of the Orders in Council, and nothing else, she had the art to make a great portion of the people of this country believe that we were struggling to destroy her very existence. She has now given up more than we have asked, and yet, not surrendered one iota of her just rights, but merely abstained from the prosecution of a principle, which, if carried into effect, would have reduced us to the most despicable state of colonization. My object, heretofore, has been to prevent the existence of any point of etiquette to a settlement. It was said, however, that a mere point of etiquette prevented a settlement with England. Sir, whenever we are compelled to go to war, let us do it on grounds on which it is impossible for Americans to hesitate. I do contend that we ought to try if it is not possible, by faithfully discharging the duties which we owe to ourselves, and maintaining a correct position, to keep peace with France and with England also.

I do hope, from what I have said, that no one

H. OF R.

Non-Intercourse.

JUNE, 1809.

will suppose that I should be governed in my conduct by the policy of England or France: I wish to be governed exclusively by our own policy. If England does us an injury, let us resist it. If France does us an injury, let us resist her. While considering the subject in this point of view, I am not much in hopes of producing the result which we hope for, because I am afraid that the policy of France is already decided on.

Another idea has suggested itself to my mind, which I think merits consideration. Let it be recollected, that, on the 15th of March, a great many of our vessels went to the continent of Europe; and, I am informed by gentlemen whose authority is to be relied on, that the shipments of colonial produce have been enormous. Where can it have gone? Not to Great Britain, because there it is as plentiful as here. It must, then, have gone to the Continent. Suppose fifty vessels have gone to Amsterdam; the insurance against sea risk is five per cent.; in consideration of the risk in port, there is an additional insurance of seven per cent. Now, sir, would you not do extreme injustice to the merchants and insurance offices by taking a step which would infallibly insure the condemnation of all your property? I ask whether it would not be injuring them materially? because these vessels left your ports under a state of things very different from that which it is proposed to create; and, by changing it, you will infallibly cause the loss of all this property. At this time, it is probable that the shipments are greater, even, than they were on the 15th March. The merchants, finding the colonial produce useless here, (for, unless they can find a foreign market for it, it is of comparatively little value,) ship it off to Europe, rather than risk the total loss of it by keeping it.

As I before said, I have always been in favor of admitting British vessels; for I would have peace with that nation, if possible. I never have hesitated on that subject, because I wish to take away every possible pretext for quarrel. If she is disposed to do us justice, I am not disposed to prevent it. If all our wealth and strength were confined within the walls of any particular town, the admission of armed vessels might be a matter of serious doubt. Let it be recollected that we have an immense extent of coast and innumerable seaports which she might attack; and I never would prevent an adjustment by a measure which can be of no real efficacy, and which may do a vast deal of harm. I would reason in the same manner with respect to France. I would make peace with her, if we can; but I would not quarrel with England to please her, any more than I would quarrel with France to please England. If the proposed step be taken, however, all the property which has left this country for the ports on the Continent, since the 15th of March last, is as certainly confiscated as it has touched those ports.

Mr. LIVERMORE wished gentlemen to confine themselves to the point in debate. For what purpose were old transactions now brought up? For what purpose did gentlemen say that Britain was misled? I might say the same of

France, said Mr. L. But I could not probably convince the gentleman, or he me. The real question is on the last amendment proposed, which appears to have for its object to get rid of the motion of the gentleman from Virginia (Mr. SHEFFEY.) The meaning of the amendment I take to be, that there has not been a satisfactory adjustment of our differences with Great Britain; whether it be considered in that or any other point of view I cannot admit it. I contend that, as the two countries stand in relation to each other, we are at peace; and whether an envoy is or is not sent out here does not lead to any event by the law of nations. Still we should be at peace. Now, as I said the other day, I am not anxious whether the bill which came from the Senate be adopted or not; it is a measure which the majority may take on their own shoulders. A gentleman from South Carolina has inferred that it is the opinion of the Executive of the United States, that this act is correct. If I knew this to be the fact, it would completely alter my opinion on the subject, for if peace be preserved, I care not in what way—but I am not for doing away what we have already done, for fear it should offend sister France.

A great deal has been said about its being our interest to keep peace with France. I feel that as much as any one; and if peace can be preserved, we certainly ought to do it. But I would not do a wrong act because I wish for peace.

Declarations made on the floor of Parliament have been introduced here as authority. I must observe, whilst gentlemen lug these in, they would be very angry at the other side of the House for doing it. And to what did the quotation amount? To this: that as long as the decrees of France exist we ought to resist them. It is admitted that an indiscriminate admission or exclusion is not a breach of neutrality. But, considering the whole circumstances of the non-intercourse act, can the United States, consistently with good faith and with the true line which they ought to pursue, or with the interests of Great Britain, or what she has a right to expect, impair one part of the obligation more than another? I conceive that the resistance to decrees and orders in the first instance was the interdiction of public ships; and, secondly, the interdiction of commerce. And although the terms of the agreement do not point out expressly that the interdiction shall cease, yet I contend that, as to good faith, it was intended it should cease with the renewal of intercourse.

As to the negotiations carrying on with France, I wish to know whether or not it is not as injurious to France to interdict her private ships as to interdict her public armed vessels? If so, the interdiction of her armed vessels will not add to her complaints. An argument is urged that France knew what we had done at the time the messenger went out in the Mentor, and that the interdiction of her armed vessels now, before the return of the messenger, would essentially change the relation in which we stand to each other. This argument would apply just as much to the

JUNE, 1809.

Non-Intercourse.

H. OF R.

whole non-intercourse bill, as to this feature of it ; and, if correct, would supersede this wholly ; for, if we have no right to enact over again against France, provisions which do not extend to Great Britain, we must let the non-intercourse act die by its own limitation. What I contend for, is simply this : that this act, which was resistance to the arbitrary decrees of both nations, when one has ceased its orders, should still be left in operation against the other.

Another argument has been used against discrimination, viz : that France has no public armed ships. If this is the case, gentlemen need not be alarmed ; for, if they cannot come here, we need not be afraid of their resentment, because we will not admit them. But we know that her cruisers can steal out of their ports, go into foreign seas, and destroy our trade in spite of the ships of Great Britain. If an American vessel has British property on board, or has been spoken by a British cruiser, a French public armed vessel is bound to make prize of her. This being the case, let us for a moment consider the subject as respects ourselves. Our feelings ought to be for ourselves and our country. Here is a nation having public ships, having a right to come into your ports. Does it comport with our honor and dignity to admit into our ports and harbors the very vessels destroying our commerce ? Not to go into an inquiry what has been the fact heretofore, but what may be now—if you pass a law that a French frigate may come into your waters and partake of your hospitalities, where is the obligation that it may not take advantage of the opportunity to make its prey more sure by watching it in port and then going out and entrapping it ? If, from the intoxication of the man who rules the destinies of the nations of Europe, he does not feel disposed to treat with us on terms of reciprocity, that circumstance should have no effect on our measures. But the question on that point is no doubt already settled ; time sufficient has been allowed for the vessel to go and receive an answer to the instruction sent to our Minister. I certainly would so far respect myself as to fulfill what I conceive to be good faith toward both, without respect to the wish or dictation of either.

As to the amount of produce sent to the Continent, it cannot be great. Some few may have adventured there on desperate voyages ; but that there is much property in jeopardy, I cannot believe, for France is known to be, in respect to mercantile property, the lion's den, easy of access, but impossible to return. Those, therefore, who have risked their property must have been extremely rash.

If the French Government would do us justice, I should be glad ; if not, we must abide by the consequences. We must not do improper things because they will not do us justice. It is proper that we should assert what we conceive to be our rights. I believe, however, that the question of peace with France will not turn on this bill. I believe the point to be already settled. If it be not, and the exclusion of French armed vessels

would be an impediment to it, the same objection would be valid against the whole bill.

Mr. HOLLAND asked the indulgence of the House whilst he stated a few reasons why he should vote for the amendment under consideration. It had been asked whether it was consistent with the honor of this nation to admit French ships within our waters. Mr. H. said, he would answer, that, as things now stood, he did not consider it consistent with our honor and dignity so to do ; and the reason why, was, that that Government had done sundry injurious acts towards this nation for which it had not made reparation, nor even intimated an intention of doing so. He therefore answered that it was inconsistent to admit the vessels of France within our waters. It was in consequence of injuries which they had done, according to my conception, that I voted for their exclusion. I was not influenced to vote for the prohibition of the ships of France from coming into our waters by any desire to produce an equality in our relations with the belligerents. It was no impression of that kind that influenced my vote ; and yet I voted that French ships of war should not come into our waters. It was not the opinions of editors of newspapers, or the clamors of individuals, that influenced my vote, and I hope they never will. I think that every gentleman, on taking his seat in this House, should consider himself beyond suspicion. The only question for the consideration of the members of this House, when a measure is presented to them, is the expediency of it ; and on that ground alone, I voted for the exclusion of French ships or of British ships. I was chiefly influenced to vote for the exclusion of British armed ships by the variety of acts committed in our waters, and the great disposition which she had shown to commit the most wanton acts of treachery. I can say for myself that my conduct was only partially influenced by the acts of British officers within our waters ; I had in view a variety of other acts committed against the rights of the people of this country. Supposing the affair of the Chesapeake to have been authorized, I never wish to see the British ships of war within our waters, till they recede from the right of impressment. I wished the British Government to know that it was the determination of the major part of the citizens of the United States to resist her till she surrendered that right. I think it was a sacrifice of the dignity of the United States to receive British vessels so long as they committed those acts. It was therefore that I voted to exclude them.

It is said, by the gentleman last up, that we are at peace with Great Britain. Does it follow, from that, that they are entitled to all the rights of hospitality that one nation could possibly show to another ? Certainly not. We ought yet to hold up some indication that we are not perfectly reconciled to them. When they abandon the outrageous principles which govern that nation with respect to neutrals ; when they abandon the practice of impressment ; when they make restitution for spoiliations of our trade ; we will hold the hand of fellowship to them. It is not enough for me

H. OF R.

Non-Intercourse.

JUNE, 1809.

to hear the British Minister say that an Envoy Extraordinary is to come out and settle all differences. I have heard something like this long ago. I heard that a Minister was to be sent out to make reparation for the affair of the Chesapeake. We have experience on this subject. Have we forgot that everything which accompanied that mission was evidence that the British Government was not sincere, and that it did not intend to accommodate? When I see an abandonment by Great Britain of the principles destructive to neutrality, I can consent to admit that nation to the rights of hospitality.

If we pass this bill as it now is, the British Government will see the inconsistency of it, and certainly it will not raise our reputation to a more exalted pitch than before. The true course, in my opinion, will be, to follow up our measures, and not to retrograde. Even had France conducted herself properly towards this country, the exclusion of her armed vessels was an act which every one will admit our right to do; but, as we have great ground of complaint against that nation, still stronger right have we to do it. To admit the armed ships of France within our waters, is, at best, but a nominal favor. It is impossible that the injury can be forgotten till reparation is made. When the injuries done to us are repaired, then, and not till then, would I open the waters of the United States in respect to France.

Why did we vote a prohibition of our waters to British ships? Because of injuries received. Have they been repaired? No, sir; to my mind they have said nothing conclusive or satisfactory as to abandoning any ground they had taken. What would be the feelings of any American, if a fleet of British vessels were to come up the Potomac, immediately after the passage of this act, with the commander who perpetrated the outrage on the Chesapeake at their head? They may do so by the bill, as it has come from the Senate, unlimited in number and force. The British would not ask the privilege, and yet we gratuitously offer it to them! Is the privilege worth anything to the British nation? Let us hold it up as a matter that requires certain privileges in return; for we are compelled to buy all the privileges we get from that nation. I wish, therefore, if this be an advantage, not to take it out of the hands of the Executive; for, we know that appeals to the magnanimity and justice of that nation will have no effect. If it be not an advantage, there can be no complaint for a refusal of it.

With respect to the ships of France, I cannot but notice the strange appearance we shall hold out to the world if this bill pass. The interdiction of commerce with a nation, and admission of her public armed ships! The public ships are the representatives of the sovereignty of a nation—of the Government against which we have cause of offence. But the merchants, who are the innocent subjects, we will not admit. We declare war against the subjects, whilst we take the Emperor and Government into our bosom! This, to me, is inexplicable. To save our honor, and preserve our consistency, we ought not to admit

French ships of war, so long as trade with France is interdicted. I think, therefore, both as respects the one or the other, we ought to maintain the same ground as heretofore. From France, we have heard nothing. Instead of relaxing measures in relation to her, therefore, we ought to strengthen them. These ideas, however incorrect they may be thought, will influence my vote.

Mr. JOHNSON observed, that, to say anything on this subject, after the time which had been already consumed, and the speeches which had been made, was contrary to a rule which he had laid down for his own conduct. But his excuse would be found in the introduction into the House of a proposition, which, it was said, proposed to place us on a neutral ground. Nothing, said Mr. J., is dearer to me, than neutrality as to our foreign relations; but, the bill submitted to the House by the committee of which I had the honor to constitute one, and which is the same with that now before us, so far from being in hostility to Great Britain, and partiality to France, I contend, is a concession to Great Britain, at the same time that I admit that it is not hostility to France. The admission of the belligerent vessels into our waters, so far from being hostility to Great Britain, is concession. I bottom the remark upon the fact, that, at this moment, as many and as heavy causes of complaint exist unsettled between this Government and Great Britain, as between this Government and that of France. If, then, the same causes exist to exclude from our waters the vessels of both, I ask whether the admission of both will not be an actual benefit and concession to Great Britain, and a nominal benefit to France? And, still, it is to go forth to the nation that we are about to commit an act which will sink the nation, from the elevated situation in which it is now placed by our former measures! I hope that we shall continue to convince the world that the United States of America are incapable of other than neutral conduct. Is it a fact, that greater injuries exist from France than from Great Britain? What injuries have been received from France? Have they been committed within our waters? Has our hospitality been violated and our officers insulted in our very ports by the vessels of France? or is her hostility merely commercial? It is of the latter description. Is it not admitted that we may lawfully exclude or admit the vessels of both belligerents? If you admit the vessels of one nation with whom you have cause of difference, and exclude those of another nation with whom you have only the same cause of difference, I ask whether you do not commit the dignity of the nation, and jeopardize its peace?

I will put this question to gentlemen: what has Britain done which would require a discrimination as to her public vessels? She has rescinded her Orders in Council. And what have we done in return? Have we done nothing? Has Great Britain held out the hand of friendship, and have we refused to meet her? Has she withdrawn her Orders in Council, and have we insisted on a continuance of our commercial restrictions? I have understood that she has done

JUNE, 1809.

Non-Intercourse.

H. OF R.

nothing but rescinded her Orders in Council, and we have renewed intercourse with her therefor. I am more astonished at the proposal to discriminate, when we see that, at this moment, orders are in existence blocking countries to which your merchants have, long ago, taken out clearances, in violation of stipulations which Britain had proposed to us. When she has violated our rights, I am more astonished that gentlemen should wish to go beyond this letter of the law. And, let the consequence be what it may, it would result to the benefit of this nation that we should not be influenced by idle fears of imaginary dangers. My better judgment tells me we should exclude the armed vessels of both nations; but the general sentiment appears to be against it. It is asked of us, why admit the vessels of France, whilst injuries which she has done us are unatoned for? And, I ask, sir, why, then, admit the vessels of England standing in the same relation to us? I only make these remarks as going to show that we ought to be strictly neutral. If, sir, you wish to take part in the broils of Europe embody your men, and send them over to the disposal of England at once, and let her send them to Spain or Austria. But, if you would remain neutral, either admit or exclude the armed vessels, as you would armies, of both belligerents.

I had thought, sir, not only from the acts of our Government, but from conversing with gentlemen, that we hailed the present as an auspicious moment, as a political jubilee; I had thought that we had been on the verge of war with the two most powerful nations of the earth, but that our situation was changed, and that, at the same moment we now offer the only asylum to the victims of European wars. And are you now about again to jeopardize the peace of this nation, without any cause whatever?

The exclusion of French and British armed vessels at the last session, may be taken on this ground. It was a defensive war, not only for the injuries we had received, but in expectation of actual hostility. Has it occurred? No, sir. Would you have excluded British vessels since 1793, for taking the vessels engaged in your lawful trade, and for impressing your seamen? You did not do it; and it was not for that alone that you did it at the last session, but for other causes, which have nearly or quite disappeared.

I have done, sir. I shall not vote for any proposition which makes a difference between France and Great Britain; not that I am afraid of the conscripts of Napoleon or the navy of George III. But I cannot consent to adopt a course which will again obscure with clouds our political horizon.

Mr. SMILE said, that if he now took up five minutes of the time of the House, he could not excuse it to himself; and he should not have risen, but to explain the reasons for the course which he should take. As to the amendment, to that he could never agree. The question which the Legislature often had to decide, was not what was best, but what is practicable. Now, he thought it a happy circumstance that parties in the other House had united on this subject. However we

may differ as to local affairs, said he, I think it good policy, if it can be done without a sacrifice of principle, to meet in concert on measures of external relations. What may be the effect, if you introduce either of these two principles into this bill? We know that, if this bill does not go to the Senate till to-morrow, if amended, a single member of the Senate can, according to their rules, prevent the bill from passing altogether. My opinion is, that it is our duty to pass the bill in its present form. If any material alteration be made in the bill, I believe it will not pass. If it does not, all that has taken place between this country and Great Britain is at an end. And I hope that this reason will induce gentlemen to permit the question to be taken.

Mr. J. G. JACKSON said he had intended, before the day had so far progressed, to have explained to the House the motives by which he was actuated in relation to the bill. He said he would still take the liberty of stating to the few members present, (the House being very thin,) why he offered the amendment to the amendment. It will be recollected, said Mr. J., that, the other day, I stated that a construction had been given to the law contemplated to be re-enacted by the bill on the table, which, notwithstanding the renewal of intercourse, excluded armed vessels from our waters; and, for the purpose of doing away completely that construction, I moved an amendment which, gentlemen conceiving it unnecessary, I withdrew. If gentlemen are correct in the opinion which they advanced, and which induced me to withdraw that motion, they cannot, consistently, vote for the amendment of my colleague providing an exception to a provision which the bill does not contain. Where is the necessity of a proviso if the law does not bear such a construction? Is the Executive to infer from the proviso that something exists in the law which the friends of the proviso declare does not exist? The amendment proposed by my colleague provides for the admission of the armed vessels of those nations with whom commercial intercourse *shall* have been (not *has* been) permitted. Are you, by this phraseology, about to devolve upon the President a discretionary power, holding the scale of national honor in one hand and the injury and atonement in the other, to decide which nation shall be thus favored, when it is conceded on all hands that the admission of the armed vessels of one nation and the exclusion of those of the other, is an act *ipso facto* of hostility?

Gentlemen have observed that there ought to be an exclusion of French and admission of English armed ships, and that any other course would be an acquiescence in the views of "*sister France*," and hostility to England. This language, sir, does not help the cause which the gentleman advocates. What must be the effect of such insinuations? They must excite feelings, which, I am happy to say, have not been displayed on this floor during the session. Might it not be retorted, as a natural consequence, that gentlemen who wish to admit British and exclude French ships, and thus serve the interest of England, are

H. OF R.

Non-Intercourse.

JUNE, 1809.

desirous of subserving the views of *mother Britain*? The attachment to *sister France* on the one hand is about as great as the attachment to *mother Britain* on the other. I believe it has been emphatically declared to the nation that we would not go to war for existing differences. If, however, gentlemen, since the last session, have so materially altered their ideas of the policy proper in relation to one belligerent, let us go to war openly; I am not for using the stiletto, or for stabbing in the dark.

The interdiction of British armed vessels from entering our ports was not on account of the affair of the Chesapeake only. It is unnecessary now to repeat the cause which led to it. If gentlemen will turn to the letter of Mr. Madison to Mr. Rose, they will find the causes detailed. Since that time other injuries have been committed; and it has been justly observed that the burning the *Impetueux* was an insult to the sovereignty of this nation scarcely less than the affair of the Chesapeake. If we permit hostility from one belligerent to another within our territory, we become party to the war, as we do, by admitting the enemy even to pass through our territory to attack another nation. It is in vain to say that a nation preserves a neutral attitude, when it permits one of the belligerents repeatedly to violate its sovereignty. If there be as much injury unatoned on the part of Britain as on the part of France, then a discrimination will be a departure from the ground which we took last session, that both should be excluded. And the President had no power over that part of the law. Inasmuch as we know that Great Britain has the command of the ocean, and that a French ship of war cannot, without a miracle, escape across the Atlantic, we, in fact, by the operation of the bill as it came from the Senate, admit English and exclude French ships.

We throw open our ports and admit the thousand ships of Britain, without opening our eyes to the consequences which have heretofore resulted from so doing. And shall we now refuse admission to the vessels of France? It is indeed difficult to say what led to their exclusion; for it has been with truth observed that the non-intercourse bill had not an advocate in the House. It was something like throwing all our discordant opinions into one crucible, and after fusion, extracting what was expected to be gold, but which all called dross. When gentlemen speak of their zeal to maintain the ground taken last winter, I beg of them to recollect their own speeches, from which it will be found that the bill was so obnoxious to them that they would not even extend its operation to the next Winter and that it was with difficulty that it was extended to the end of the present session.

I hope, sir, that present appearances across the water are not the sure tokens of the course which the British Government intends to pursue towards us. When, however, they assume so awful an aspect, we had better remain a little longer in our present situation. It was unequivocally known to the British Government that the over-

ture which she made would be accepted, because last summer we offered more advantageous terms to her, which she refused to accept. They know the state of things in this country, however, or the letter of Mr. Canning would not have found its way into the prints of Boston before it found its way to us here. Here is a tariff of duties to take effect on the twelfth of May, by which cotton is taxed \$7 50 per hundred weight, pitch \$5 50 per twelve barrels, and many other articles enormously taxed. These duties were laid at a time when they must have known, if my position be correct, and I defy gentlemen to show how it is not, that their overture was accepted. They were laid at a time when our products were known to be going to that country, having no other market, because they had re-blockaded the Continent after nominally rescinding their orders, and thus prevented our vessels from going to the Continent. It was a kidnapping duty, and must produce the ruin and bankruptcy of many thousands of those who embarked their property on the ocean within two weeks after the suspension of the embargo. Great Britain has cut off our market from every quarter of the globe but herself, and imposed those duties on our exports to her ports. This is sufficient to induce the American Congress to hesitate. The bill under consideration presents a perfect equality in regard to vessels of war, and discrimination as to everything else; and in so doing goes far enough.

Gentlemen ask, has there not been a satisfactory adjustment of our differences with Great Britain? I deny it. What is the expression of the British Envoy on which gentlemen rely, and on which they are about to sit down quietly under the vine and fig tree? "In the mean time, 'with a view to contribute to the attainment of 'so desirable an object, His Majesty would be 'willing to withdraw his orders,' &c. In the mean time, still persisting in the principle of taxing our exports, a right denied even to us by the Constitution. It is to be hung up *in terrorem*, to be let loose upon us hereafter, if we shall not do everything which is required of us. There is a marked cautious style of language in this letter, which shows that Great Britain in fact has promised nothing. She does not say that she will repeal or revoke her orders, but that in the mean time she will withdraw them; and, sir, in the mean time she has withdrawn them, and substituted other orders or proclamations equally obnoxious. This is reason sufficient for not going beyond the letter of the agreement; which however I will consent to do, by admitting instead of excluding British armed vessels.

When Mr. J. G. JACKSON concluded, Mr. SHEPHERY, in order to obtain a direct question on his own amendment, adopted Mr. JACKSON's rider to it, as a part of his own motion, and called for a division of the question, taking it first on his own amendment as first moved.

Some doubt arising whether it was correct thus to act, according to the rules of the House, Mr. MACON produced a precedent in which he had himself done the same in the case of a motion

JUNE, 1809.

Non-Intercourse.

H. OF R.

for the repeal of the second section of the sedition act, nine or ten years ago.

The question was then taken on Mr. SHEFFEY'S amendment—yeas 35, nays 77, as follows:

YEAS—William Baylies, Daniel Blaisdell, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, William Ely, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, James Holland, Jonathan H. Hubbard, Richard Jackson, jun., Robert Jenkins, Herman Knickerbacker, Joseph Lewis, junior, Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Vincent Matthews, Pleasant M. Miller, William Milnor, Joseph Pearson, Benjamin Pickman, junior, Timothy Pitkin, jun., Daniel Sheffey, John Stanley, James Stephenson, Jacob Swoope, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, junior, William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Howell Cobb, James Cochran, Orchard Cook, James Cox, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, junior, Peterson Goodwyn, Daniel Heister, William Helms, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, Walter Jones, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Robert Marion, Alexander McKim, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, John Porter, Peter B. Porter, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, Samuel Shaw, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Taylor, John Thompson, Uri Tracy, Archibald Van Horn, Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.

This motion having been negatived, Mr. JACKSON'S amendment to it fell of course.

Mr. GOLD observed that he did not consider the last question as decisively trying the point which had been debated; and for that reason moved to insert, after the clause continuing in force certain sections of the non-intercourse act, these words: "and also so much of the first and second section of the same act as provides for the exclusion of public ships or vessels of France from the waters of the United States."

Mr. J. G. JACKSON moved to amend the amendment by inserting between the words "vessels of" and "France," the words "Great Britain and."

Mr. GOLD requested of Mr. JACKSON to withdraw his motion for amendment, that the question might be taken in a direct mode.

Mr. J. G. JACKSON withdrew his motion for amendment, observing that he had but moved it to show how the game played by the gentleman from Virginia (Mr. SHEFFEY) might operate, if any person was disposed to embarrass the proceedings of the House.

Mr. TAYLOR observed that Mr. GOLD'S propo-

sition presented the same question as that which had just been decided, and suggested to him the propriety of withdrawing it, to save time.

Mr. GOLD, observing that he did not wish to embarrass or unnecessarily to consume the time of the House, withdrew his motion.

Mr. TAYLOR said that, as the House had decided that they would not discriminate between the admission of British and French public vessels, he wished to try the question on the exclusion of both. He made a motion having in view that object; which was decided as follows, without debate:

YEAS—David Bard, William W. Bibb, Adam Boyd, William Crawford, Joseph Desha, James Holland, Nathaniel Macon, Robert Marion, Jeremiah Morrow, Benjamin Pickman, jun., John Ross, George Smith, John Taylor, Robert Whitehill, and Robert Witherspoon.—15.

NAYS—Lemuel J. Alston, Willis Alston, junior, William Anderson, Ezekiel Bacon, Burwell Bassett, Daniel Blaisdell, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John Campbell, John C. Chamberlain, Epaphroditus Champion, Matthew Clay, John Clopton, Howell Cobb, James Cochran, Orchard Cook, James Cox, Richard Cutts, John Dawson, William Ely, James Emott, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jun., Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard Jackson, Robert Jenkins, Richard M. Johnson, Walter Jones, William Kennedy, Herman Knickerbacker, Joseph Lewis, junior, Edward St. Loe Livermore, Robert Le Roy Livingston, John Love, Aaron Lyle, Vincent Matthews, Alexander McKim, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Joseph Pearson, Timothy Pitkin, junior, John Porter, Peter B. Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, Samuel Shaw, Daniel Sheffey, John Smilie, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Benjamin Tallmadge, John Thompson, Uri Tracy, George M. Troup, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Robert Weakley, Laban Wheaton, James Wilson, and Richard Winn.—100.

Fifteen for it, one hundred against it—being a majority of eighty-five against the exclusion, at this time, of the public vessels of both belligerents.

Mr. MONTGOMERY observed that the decision of the courts of the United States had been that, after a law had expired, they had dismissed all suits pending for the recovery of penalties incurred under the act. He conceived that this bill should have a saving clause, that penalties and forfeitures incurred under it, should be recoverable and distributable after the act itself had expired. He therefore moved an amendment to that effect.

H. OF R.

Non-Intercourse.

JUNE, 1809.

Mr. J. G. JACKSON concurred in opinion with Mr. MONTGOMERY.

The amendment was agreed to, without opposition.

Mr. LIVERMORE said that he had an amendment to propose to the bill, which, he conceived, would essentially benefit the people of the United States, and could injure no one, not altering any principle of the present bill. It would be found, by referring to the bill, that they were about to enact that it should not be lawful to import into the United States or Territories thereof, any goods, wares, or merchandise, from any port or place situate in France or its dependencies, or any goods of the growth or manufacture of its colonies or dependencies. The island of St. Domingo, said Mr. L., was considered as a colony or dependency of France. Now, could any gentleman point out what benefit could arise to the United States from not importing any of the products of that island into this country? It certainly could not benefit France, who had no commercial connexion with the island, and would benefit the United States by returning coffee, sugar, &c., for our surplus produce. He expatiated upon the benefits of such a trade, and concluded by moving the following amendment to the bill:

"And, for the purposes of this act, no country or place shall be considered a colony or dependency of Great Britain or France, which is not in the immediate possession of Great Britain or France."

Mr. RANDOLPH hoped that this question would be decided in such manner as would enable the people of the United States to distinguish the part which their respective Representatives bore in its decision. It was not his purpose to trouble the House at length upon it, but merely to ask, if it could be possible that the House of Representatives of the United States, a people, one-sixth of whose gross population were in a state of domestic slavery, could incidentally undertake to acknowledge the independence of the island of St. Domingo on the mother country? Mr. R. said he was not about to consider this question at all in relation to its foreign aspect or bearing, but merely as to its effect at home. With the motives which might have operated on the Government of the United States to prohibit intercourse with St. Domingo, he had nothing to do; neither had he any right to suppose but that they were the most laudable. As a Southern man, as a slaveholder, Mr. R. said, he did congratulate his country and himself, at the time the law passed, that all intercourse between that nest of banditti and the country to which he belonged, was cut off. He said he knew that much might be said on the subject of this amendment, as it regarded foreign policy, as it regarded accommodation with France. Even in that aspect of things, gentlemen who had expressed their willingness not to interdict French armed vessels from our ports would hardly be induced to place in the way of accommodation such a bar as this might be. With its foreign bearings, however, Mr. R. said, he had nothing to do. He viewed it solely as it related to domestic pol-

icy. He said there was an immense section of this Union, all the country south of Pennsylvania and south of the Ohio, the best and dearest interests of which, the very existence of which might be implicated to a certain extent in that amendment. And, could it be supposed that the Representatives of the people of that country would listen to such a proposition? He hoped not. He hoped the motion would meet a decisive and unanimous rejection. But a few days ago, they had heard of an insurrection of the slaves in Jamaica. What must be the effect of a direct trade betwixt the town of Charleston and the ports of the island of St. Domingo? To say the truth, he had been astonished that, long before the traffic to that island was stopped by our Government, a sense of self-preservation had not united the interests—for it was a mixed interest not to be mistaken; it existed in nature, it existed in things, and could not be gotten over—he had been astonished, he said, that a sense of their own rights, interest, and safety, had not united every man in the Southern country in bringing forward such a proposition. He would not consent, for one, to put one dollar, one cent, into the Treasury by legalizing a trade there. He would oppose it every way. What had lately occurred in the island of Cuba? Contrary to law, our vessels had been compelled to take on board persons expelled from that island, masters and slaves, males and females. What was now the state of things in St. Domingo? Why, that a civil war raged between the chieftains of those barbarians. The first American flotilla which put into Port Francoise, or any other port in the island, might be compelled to take on board the brigands, whom the dominant party might put on board, to enable themselves to enjoy, as they might suppose, the peaceful possession of the island. The importation of such persons not only might, but inevitably must, work in the Southern country a dreadful evil. He hoped he had said enough, and more than enough, to insure the rejection of the motion.

Mr. SMILIE said that the aspect in which the gentleman from Virginia had viewed the motion, was certainly correct. Independent of that view the gentleman from Massachusetts should have taken a previous step before he brought forward his motion; and that was, to declare the island of St. Domingo independent. If we were ready for that, the motion might be adopted. If the gentleman was ripe for war with France, this motion would answer his purpose; for, certainly, if we were to take such a step, we should pave the way for war. France, or any other nation, would not submit to an imposition of this kind.

Mr. LIVERMORE said he had made this motion, because he believed that a free construction of the act would operate beneficially. Really, if he had thought it would operate in the way in which the gentleman from Virginia supposed, he should be the last man to bring forward a motion to interrupt the harmony of the Southern States. He had not supposed that the adoption of the motion would have the slightest effect of that kind. He did not conceive either that there was any ground

JUNE, 1809.

Non-Intercourse.

H. OF R.

for such a supposition, which went upon the idea that, because we traffic with them, the people of that country must be exported into this; for the exportation of their produce certainly did not include their principles. The same law that now exists would then exist to prevent the importation of slaves. Did it follow, because an act has been passed by this Government to cut off the trade with St. Domingo, that there was no communication between the two countries? The reverse was known to be the fact. He said that there is a trade, to a great amount, carried on between the United States and St. Domingo, perhaps as much from North Carolina as any other State, and which was not now carried on in a regular way, but in foreign bottoms. The "banditti" who are to bring with them those principles which would serve to destroy the Southern States, must be imported in that way. I conceive that there is no weight in the objection, or I would give up the motion. It was but to legalize a trade which will be carried on in an illegal way, which now is and will be carried on by foreigners, between this country and that, that I offered it. The gentleman from Pennsylvania seemed to suppose that we must pass a non-intercourse act with St. Domingo or go to war with France. If we consider ourselves under any obligations to France, we should then certainly observe strict non-intercourse with that island. But, under present circumstances, I conceive that argument to have no weight.

Mr. MACON said he did not rise to debate the question at length; he would not add anything to the force of what had been said by the gentleman from Virginia, and might detract from it. That there were people in North Carolina, as everywhere, who would sell principle for a little sugar or coffee, might be true; but, for one of the Representatives of that State, he disclaimed them. Sir, said Mr. M., you are staking the safety of this nation—for what? For the profits of a little trade in coffee and sugar with barbarians, with people who, at this time, have no settled form of government. If there be such people as carry on the illegal trade, in the State in which I live, they do not live in the part which I represent, but on the seaboard. As it relates to that State, nine thousand nine hundred and ninety-nine would be opposed to the trade, for one that is in favor of it. When we talk about its influence on our relations with France, or in producing a war with her, the question dwindles into nothing. It is nothing to a civil war, and that of the worst kind. Compare the war carried on in St. Domingo with all the horrors of that carried on in Europe, and the latter sinks to nothing in the comparison. I had rather be at war with both belligerents than have this trade.

Mr. DANA said, he thought it was desirable that the Legislature should pronounce the political import of the term "dependency," rather than that it should be left to judicial decision; but he was not certain that the amendment proposed to define it in the best manner. He believed the general idea of the mover to be correct, that

there should be a definition; for he understood that a question had now arisen, which might be referred to the courts, and he thought it peculiarly unfortunate that the judicial authorities should be called upon to decide. For himself, he said, he was not at all satisfied that the construction of the Secretary of the Treasury was a correct one; he was by no means certain that Holland was not a political dependency of France. For himself, he was not by any means solicitous to enter into the question of the superiority of black or white men. I am not, said he, such a democrat as to say that all men, whatever be their colors, should be liberated and placed on an equality. I consider myself, on all questions of this sort, as a republican under the Federal Constitution—that is, a friend to elective liberty. But, whatever be my theory, I am controlled by the Constitution of the United States, which does not permit me to indulge in theories on this subject. Whatever shall tend to disturb the state of things in the Southern country, a state of things which, by implication, I consider as guaranteed by the Constitution, I shall consider as not conforming to that Constitution, which, as a federalist, I am bound to respect. As the introduction of this amendment into the bill might affect the question of the independence of Hayti, or interfere with the relations between St. Domingo or France, I should be unwilling to adopt it; and yet I think it proper that some definition shall take place, of the word "dependency." Under the view which I have taken of the amendment, however, I cannot vote for it.

The question was then taken on Mr. LIVERMORE's amendment by yeas and nays, and negatived—yeas 1, nays 97, as follows:

YEA—Edward St. Loe Livermore.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, William Baylies, David Bard, Burwell Bassett, William W. Bibb, Daniel Blaisdell, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, John Campbell, William Chamberlin, Matthew Clay, Howell Cobb, James Cochran, Orchard Cook, James Cox, William Crawford, Richard Cutts, Samuel W. Dana, John Dawson, Joseph Desha, James Emott, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, Nathaniel A. Haven, Daniel Heister, William Helms, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, Walter Jones, William Kennedy, Herman Knickerbacker, Joseph Lewis jr., Robert Le Roy Livingston, Aaron Lyle, Nathaniel Macon, Robert Marion, Alexander McKim, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, Wilson C. Nicholas, Benjamin Pickman, jr., John Porter, Peter B. Porter, Josiah Quincy, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, Samuel Shaw, Daniel Sheffey, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, Jacob Swoope, John Taylor, John

Thompson, Uri Tracy, George M. Troup, Nicholas Van Dyke, Archibald Van Horn, Robert Weakley, Robert Whitehill, James Wilson, Richard Winn, and Robert Witherspoon.

Absent on this vote, forty-three members, viz :

Messrs. *Breckenridge*, J. C. Chamberlain, Champion, *Chittenden*, Clopton, Crist, Davenport, *Denning*, Ely, *Gardenier*, Gray, Hale, Hubbard, Richard Jackson, Jenkins, *Kenan*, Key, Love, Lyon, Matthews, *McBride*, McKee, Miller, *Mosely*, *Nelson*, *Newbold*, Nicholson, Pearson, Pitkin, *Potter*, Ross, *Say*, *Seaver*, *Smelt*, Stedman, Stephenson, Sturges, Taggart, Tallmadge, Upham, Van Rensselaer, Wheaton, and Whitman.

Of whom those in *italic* are absent from the city, on leave, except Mr. DENNING, who has not taken his seat.

Mr. GOLD suggested an amendment to the bill in the part providing for the recovery and distribution of such fines as "have been" incurred under the sections of the non-intercourse act revived and amended. He moved to amend it by making it read "may be," instead of "have been." At present, he conceived the bill to contain, in this respect, an *ex post facto* provision, inasmuch as it directed the recovery of fines and penalties, the suits on which must abate on the expiration of the law under which they were commenced.

Mr. SHEFFEY objected to the amendment. He said that laws, when made, ought to be observed, and that the usual mode of coercing obedience to our revenue laws was by fines and penalties on the violators; and, although the law under which a penalty is incurred, expires before the recovery of the penalty, yet still the offender is liable to the punishment of his offence; that the suits for penalties should not expire with a law inflicting them.

Mr. GOLD contended that it was impossible to recover penalties incurred under one law by another law, or to recover them after the law under which they were incurred had expired, unless their subsequent recovery was provided for under the law which inflicted them. The penalty must stand or fall with the act under which it was incurred. This was an *ex post facto* provision; for it was a principle, that a judgment could not be obtained for a penalty after the act expired under which it had accrued.

Mr. GOLD's amendment was negatived, six or seven gentlemen only rising in the affirmative on it.

Mr. MILNOR suggested an amendment to that part of the law remitting from forfeiture all vessels which have come into the United States between the 20th of May and the 10th of June. He wished to add after the word "vessels" the words "and their cargoes."

Mr. J. G. JACKSON said he had no objection to the amendment, though he believed the whole section might be dispensed with, inasmuch as he understood that the Secretary of the Treasury, under the power given him by former laws, had already remitted all the penalties.

Mr. W. ALSTON objected to the amendment, inasmuch as it would take away the discretion now reposed in the Secretary of the Treasury;

and although there might be in the cargo goods forfeited for violation of the ordinary revenue laws, yet the injunction would be peremptory on him to remit the whole cargo.

Mr. MILNOR's motion was negatived.

The bill was then ordered to a third reading to-morrow, without a division.

TUESDAY, June 27.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act in addition to the 'Act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio,' to which they desire the concurrence of this House.

A bill from the Senate, for freeing from postage all letters from Thomas Jefferson, was twice read. [The act of last session only freed from postage letters to Thomas Jefferson.]

Mr. MACON opposed the bill, on the ground that the privilege of receiving letters free was sufficient, having himself an objection to the whole privilege, on principle; and Messrs. DANA, J. G. JACKSON, LIVERMORE, TAYLOR, and MONTGOMERY, supported the bill, because that it was proper to give to Thomas Jefferson the same privilege which had been heretofore granted to George Washington and John Adams. The bill was ordered to be read a third time, and was subsequently read a third time, and passed.

EXPENDITURE OF PUBLIC MONEYS.

Mr. RANDOLPH, from the committee appointed to inquire into the expenditures of public money, &c., made the following report:

"Report, in part, of the committee appointed to inquire and report whether moneys drawn from the Treasury since the 4th of March, 1801, had been faithfully applied to the object for which they were appropriated, and whether the same have been regularly accounted for:

"Your committee beg leave to lay before your honorable House such information as they have obtained from the several departments touching the application of public moneys, which, from the pressure of time and business, they have not found leisure thoroughly to investigate, but which they deemed would prove acceptable to the House of Representatives. It will be perceived that the respective communications from the War and Navy Departments are of an unsatisfactory nature, differing in character from those required by the committee. A representation to this effect has been made to the heads of these departments respectively, and they have been notified that the information sought by the committee is essential to the prosecution of the inquiry with which the committee have been charged by the House of Representatives. Expectation is held out that it will be prepared by, or during the course of the next session.

The documents accompanying the report having been partly read, a motion was made that they lie on the table, and carried—46 to 40; and the report and documents were ordered to be printed.

JUNE, 1809.

Non-Intercourse.

H. OF R.

NON-INTERCOURSE.

The bill to revive and amend certain parts of the act "interdicting commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," was read the third time.

Mr. PICKMAN hoped that he should be excused for making a few observations at this stage of the bill, not having before partaken of the debate. He said he felt a strong objection to the bill, because it admitted French vessels into our ports and harbors. Gentlemen had asked why a discrimination should be made. He answered, that the reasons for this conduct were to his mind very plain. He had considered the outrage on the Chesapeake as a gross violation of our rights and of the law of nations, and he believed no one had felt more indignation at it than he did. But that was now atoned for. I consider (said Mr. P.) that the Orders in Council are repealed; that Great Britain has stipulated to send an envoy with instructions to negotiate for a settlement of all differences. I consider these things as done, because I consider the faith of the British nation as solemnly pledged to do them; for, if it had not been, the United States would not have been justified in taking the attitude which we have taken.

It has been said, that since the arrangement here has taken place, Great Britain has modified her Orders in Council in a most exceptionable manner. I admit that this modification was posterior in point of date to the arrangement here; that is to say, that the proclamation of the President of the United States was issued on the 19th, and that the orders were modified on the 29th of April; yet, in strict propriety, the new orders may be said to have issued before the arrangement, because it was before it was known. Viewing the subject in this light, I do not believe that the modification of the Orders in Council did proceed from the arrangement here; and I now declare that if such modification as has been made is to be considered as rescinding the orders, according to the stipulation made with Mr. Erskine, I should consider it a mere mockery. I do, however, consider it in a very different light, and have no doubt that the Government of Great Britain will adopt such modification of their orders as they have stipulated to do. These are my ideas, and on this ground I did, and do still believe that we ought to have made a discrimination, because I consider one nation to have complied with the conditions of the non-intercourse act, whilst the other has not varied its position.

It will be recollected by the House that when the question was yesterday propounded, whether we should exclude the vessels of both belligerents, I voted in favor of it; and I confess that I prefer the exclusion to the admission of both. I know that the admission is more favorable than the exclusion; but, when I consider that the honor of the nation has been endangered by them, I will not prostitute it to either. I do consider it contrary to the honor of my country to admit the armed vessels of either belligerent, when sailing under orders or decrees justifying them in captur-

ing every American vessel sailing on the ocean. And the observation appears to me to be of great weight, that there is a great inconsistency and impropriety in refusing admission to their merchants, and admitting the entrance of armed vessels. Considering the peculiar state of our relations with France, I think it proper that we should know how France will receive the intelligence of our accommodation with England before we change our situation in relation to her.

I have other objections to the bill, the principal of which is the introduction of the word "dependency," or retaining it in the bill which it is intended to re-enact. Gentlemen are not sensible of the very great embarrassments which the most intelligent merchants have had to undergo to avoid the violation of our laws. A vessel sails to a port which at the time of her sailing is not a dependency of France. When she arrives, the French Emperor has possession; and the port then being a dependency, the vessel incurs the penalty of the law. It is true that, under such circumstances, the Secretary of the Treasury will remit the penalty. But why subject a vessel to this violation of your laws, when it is inconsistent with good policy? It is utterly impossible to carry into effect a regulation prohibiting trade with France. It is known that our vessels going to Barbadoes have brought and will bring back French goods. They do not know whether the articles they carry are of French growth or not, yet, at the same time, there can be no doubt that a considerable portion of those articles are of French production; and, if so, the property is liable to condemnation. I am not in favor of passing a law which presents such strong temptations to a violation of it. I have a high opinion of our merchants. It is owing to their honor and punctuality that your revenue has been so great as it is; but if once you encourage the practice of smuggling, or introduce such strong temptations to it, your revenue will cease to come into the Treasury with such certainty as it has.

I shall not trouble the House with any further observations, though I have other insuperable objections to the bill. I should be happy to agree with the majority in favor of the bill; but, viewing it as I do, viewing the admission of French ships into our waters as inconsistent with the course laid down for our conduct by the non-intercourse law, viewing it as inconsistent with the honor and dignity of the nation to admit any armed vessels into our waters whilst the country to which they belong has orders and decrees in force against us, I must vote against the bill.

Mr. MACON said he was against admitting the armed vessels of either belligerent into our waters. He would place our foreign relations precisely in the state in which the President had left them, saying neither yea or nay on the subject of their armed vessels, leaving it where it had been left by both the parties to the late arrangement. He should have been glad that the same disposition had been manifested towards us by France as by Great Britain; but because there had not he would do nothing towards her to prevent it.

Some gentlemen had conceived that an indiscriminate admission would be more advantageous to France than to Great Britain. Mr. M. said he did not agree with gentlemen in this; for Great Britain had Canada and her West India islands, to which she was in the habit of sending out vessels; whilst France, having no possessions on the American coast, had no occasion for our hospitality.

Mr. M. said he sincerely hoped that we should now act, as we had heretofore done, so as to give to neither of the belligerents cause to charge us with partiality. He was decidedly of opinion that we ought to leave both nations in the same state as they were left by the President's proclamation. He had no doubt that Great Britain would send a Minister to negotiate. But what was left, as to her, for the surrender or repeal of which she had any anxiety? Nothing. As to France, she would have no shipping at sea, so long as the war lasted in Europe, unless an event took place which he hoped would not. You give France a right to enter your waters, said he, and take away any inducement she might have had to rescind her decrees. I believe the passage of the bill will extend the difficulties of the nation. I know it is not a very pleasant thing to be opposed to the evident sentiment of a majority of the House; but it is the bounden duty of those who think as I do to vote, as I shall, against the bill.

Mr. TAYLOR said it appeared to be desired on all hands that nothing should be done by the House to embarrass the negotiation; and he presumed that the majority, in the different stages of this bill, had been actuated by that wish. If, said Mr. T., I could see the present measure in the light in which its friends appear to view it, I certainly should be in favor of it. But, when it is recollected that your legislative acts have been held out to your fellow-citizens and to foreign nations, promising a perseverance in our restrictive measures against such nation as shall continue to oppress our commerce by her unlawful edicts, I consider our faith as pledged to the nation, that, according to the recession of one belligerent, or perseverance of the other, we were to shape our course.

The gentleman from Virginia aimed a side blow at those who, in the discussion of this subject, had spoken of the ground which we have taken. On the effects supposed to be produced by the non-intercourse, I had a right to say *we*. The sense of the House was taken distinctly as to a repeal of the embargo, on the first report of the Committee of Foreign Relations. It was then that the principle was decided, and it was that act which was taken hold of across the Atlantic, and made the ground of the instructions which came out by Mr. Oakley to the British Envoy here, and on which the arrangement did take place. Now, though the gentleman seems unwilling that any part of the House should say *we*, I vindicate the claim which I have to use it. In fact, I would claim for the mover of the original proposition to this House for the interdiction of armed vessels, the gentleman from North Carolina (Mr. MAcon,)

the merit of the late negotiation, if it attach any where. But I am not willing to carry on the co-partnership. I will not now say *we*. I, who voted for the motion going to give power to the President of the United States to issue letters of marque and reprisal against that nation which persevered in its edicts after the other had withdrawn them, am not willing, on the passage of this bill, to say *we*, as by it you admit instead of continuing the exclusion against, armed vessels, where, instead of a recession, injuries have rather been added. When gentlemen are asked why they have admitted French vessels, in our present situation in relation to France, after the temper displayed and the votes given at the last session on the subject, their's must be a feeling in which I would not participate, and therefore I will not say "*we*."

Mr. DANA observed that, by the Journals of the Senate, it appeared that this bill had been unanimously passed by that body. This unanimous vote of the Senate might be regarded as a consideration to operate very strongly on the minds of members of the House, as respected the propriety of adopting the present bill; it certainly must have weight in favor of a measure, when it was found that men differing widely in political opinions joined in voting for it. I, said Mr. D., have myself very strongly felt the force of this consideration. But you know, sir, that the rules of proceeding and order established in this House do not admit of our urging in debate the conduct of the Senate of the United States as a motive for deciding the opinion of this House. Why is it out of order? Because the excellence of our Constitution is, that the Legislature shall consist of two Houses, each of which shall act on its own ideas of propriety. If it is not proper to mention the conduct of the Senate in debate, it is not proper to suffer it to overthrow our opinions. In this view I feel myself bound, with all due deference to the Senate, to examine this subject for myself. I cannot but feel the weight of that vote; but I cannot forget that the bill respecting the writ of habeas corpus was once passed in that House, and rejected unanimously in this, without being permitted to be read a second time.

On examining this bill, sir, I do not find that its various provisions appear to constitute one whole, to conform with any system of policy, or to be consistent with the principles of any man in this country. It is certainly not the course which I would have chosen; it is not consistent with the course marked out at the last session of Congress. I was certainly not in favor of the embargo; I disapproved of that system; and when I saw the non-intercourse system, I considered that as retaining the embargo principle, but not with so much precision. I consider this bill to be receding from a weak position. If the embargo was a decisive measure, it ought to have been taken more completely at the outset than it was. But it failed. The non-intercourse was abandoning one part and retaining another of the system. This bill was abandoning a part of the non-intercourse system and retaining a part. When I look

JUNE, 1809.

Non-Intercourse.

H. OF R.

at it, I see nothing in it at which any portion of American citizens can rejoice or be proud of; nothing of a firm, dignified, matured, sound, consistent policy, to be maintained on general principles against all the world. Am I then required to vote for a measure of this kind? If, with my friend from Massachusetts (Mr. QUINCY) I could suppose that voting for a system which I did not like would destroy it, I should vote for it. For, if I understand him, he dislikes the whole, and therefore will vote for this part of it. The whole would die at the end of this session; but to show his anxiety for its death he must keep it alive till the next session of Congress. I was very much pleased with a great part of his remarks; I approved his premises, but his conclusions appeared to be directly the reverse of the proper result. But as he is a gentleman of strong powers of mind, he may well be able to draw a conclusion which I cannot.

Gentlemen have alluded to the declarations of the Emperor of France in relation to his decrees. When Bonaparte talks of the freedom of the seas, does he mean the same idea which we attach to these words when we use them? When he talks of the principles of maritime law, does he mean the same as we? On the subject of maritime law, has he not stated things which before were unheard of? Certainly, sir. On the contrary, I have always understood the claims of the United States as a neutral nation to be, not to assert new pretensions, but to assert such claims as they may think reasonable with respect to principle, and such as have been formerly admitted in practice.

With respect to the bill before you, there has been one argument used, and an imposing one certainly, provided that it appeared completely founded in fact. It is said this bill is considered as comporting with the views of the Executive Government of the country; and that the Executive has acted so well in conducting the preliminary arrangement for removing certain obstacles to negotiation, that on the whole we ought to assist his Administration. On this subject, sir, I have to observe that we are utterly without official evidence on this point. We have no evidence whatever, of an official nature, that this bill comports with the Executive views. If we have, it is to me unknown. We have not, during the present session, had any report in detail from the Committee of Foreign Relations. If that committee had made a report, stating facts and reasoning as the basis of the bill, I might consider that committee as having consulted the Executive of the country, and as having adopted its disposition as the basis of its proceedings. But, as we have no such thing, are we to suppose that there are certain gentlemen in the House who are organs of communication of the Executive wishes? Have we any other evidence of the disposition of the Executive in relation to this bill than that certain gentlemen are in favor of it? If, on this subject, the opinion of the Executive should properly decide our judgment, ought we not to have had some official exposition of the views of the Government? As we have no such information,

we are to examine whether this bill comports with the arrangement made with Great Britain. But, as to that, I beg leave to be deemed as not considering myself pledged by that arrangement merely. As to myself, as an American, I am by no means gratified that we should contend with one nation because another does us justice. A stipulation of that kind I should consider as degrading to my country.

In my remarks, therefore, I disclaim owing anything for any boon which Great Britain may have given us, because I do not consider it as a boon that they have ceased to injure us. But in the face of the world such declarations have been formally made by the Congress of the United States. The fact is known to ourselves, to our countrymen, to such portions of the foreign world as may take an interest in our concerns. And in comparing this bill with those declarations, will it be possible to conceive that we are consistent? When you had differences with both the belligerents, what was your language? You talked as though you would throw the gauntlet to the globe, as though you would stretch out your arm and smite the world. When an adjustment is made with one of those Powers, what is your language? Really, sir, the difficulty under which the Government formerly labored was said to be this: that if we went to war with both nations.—[Mr. D. quoted a part of the report of the Committee of Foreign Relations of last session on this subject.] I consider this part of the report, said he, as proceeding upon assumptions which are erroneous, and founded upon grounds untenable and inaccurate. But as to this report, which appeared to receive the approbation of a majority of the members of the House, it seems to be clear from it, that were it not that you were so equally wronged by both belligerents, and that both persisted, you certainly would have engaged in war with one; but that, as a treble war was rather a difficult plan, it was best to continue the restrictive system.

What is the declaration made to the British Minister at this place, by our Secretary of State, on this subject? Is it pretended to enter into any stipulations with Great Britain as to our conduct? No, sir, it is that our measures are adopted on the principle that the Government would assert the rights of our country against any Power on the globe, without any reference to pledges. On this point I would call the attention of the House to a sentence which is the most extraordinary surely that ever was put together. And, unless it be a dash of the pen, like that of the brush of the painter who painted at one dash a perfect horse, it must have been the elaborate labor of twenty-four hours; in either case not detracting from the skill of the author of it. The sentence is as follows: "As it appears at the same time, that, in making this offer, His Britannic Majesty derives a motive from the equality, now existing, in the relations of the United States, with the two belligerent Powers, the President owes it to the occasion, and to himself, to let it be understood, that this equality is a result, incident to a state

H. OF R.

Non-Intercourse.

JUNE, 1809.

'of things, growing out of distinct considerations.' If any mortal, from the depth of his knowledge, can specifically tell what this means, he may pass for an oracle. It proceeds upon this idea: that in making our arrangements at the last session we did not mean, as respects saying that whatever nation insulted us we would resent it, to please Great Britain alone, but equally to please any other nation whatever. If the saying this was an annunciation by our Government to the British Government, that in making this arrangement we are not making any stipulation in respect to France, but you and the world may know that whoever invades our rights shall meet with resistance, adequate to the crisis, if the Government can find means to accomplish it. If the paragraph be thus considered, we may respect the declaration itself, and admire the skill with which it is so worded as to convey nothing offensive in the expression. In this view, I am willing to admit it, because it conduces to the reputation of the Government and of the Secretary of State, who in this business appears to have conducted with the frankness of a man of talents, and the manner of a practical man of sense. I consider this bill as not corresponding with the resolutions of last session, as not corresponding with the general sentiment in regard to the non-intercourse law when it passed; nor with the general sentiment fairly to be collected from the correspondence of our officers with the British Minister.

If then this bill be not consistent with the declarations of gentlemen and of the Government itself, I must ask of myself whether it be consistent with my own opinion? And there, I cannot hesitate. For myself, I do not approve this system of commercial restriction. The non-importation act was the commencement of a system, feeble as it affected other nations, powerful to distress ourselves. In this system there is a radical error, by adopting a policy which acknowledged our allegiance prior to the Declaration of Independence, when we were merely infants, and when refraining from intercourse was an expression of the dissatisfaction of a child; when remonstrances at the foot of the throne were presented, very properly accompanied with professions of allegiance and humble supplications of mercy. And therefore I say, that to adopt these regulations is to adopt measures of infantine weakness, and implies premature old age; that if this be our system of resistance to foreign insult or injury, second childhood has come upon us at once. And, sir, when I hear gentlemen quote the measures of Congress prior to the Declaration of Independence in 1776, I am convinced that, would they but read through the page of history of that day, they would have scouted such authority for these measures; for they were universally attended with supplications before the throne of Majesty. And if we mean that the Ministers of the United States shall only throw themselves at the foot of the thrones of the French Emperor and British King, it may be proper to adopt these measures. Otherwise, they are unworthy of a great and independent nation.

If it be asked, what other system would be proper, I acknowledge it to be a question of difficulty. But, for myself, I think I would say that I would prefer an armed neutrality; not such a one as distinguished the confederacy in the Baltic, not one to assert new pretensions; but one temperate in its claims, specific in its object. And I could really wish that in the present state of the world we should turn our attention to a system of policy which shall be founded on general principles, and at least say what are the rights which as neutrals we claim, and what the pretensions to which as neutrals we will submit; and if our legislation were of that character, we never should be embarrassed as we are. We pass a law that if edicts of the belligerents be revoked or modified, trade shall be renewed. Now the edicts then in existence might be revoked, and others substituted, and the law would be complied with. The whole system has been constituted too much in reference to particular cases.

Independently of these general views, I have another objection to the bill: that the persons who are in favor of this bill cannot, I presume, tell its meaning. Let me not be understood as meaning that they cannot tell what they believe it means; but the question is, whether a majority of them can agree as to its particular meaning. The bill proposes to continue in force the third section of the non-intercourse act. What will be the effect of it? It will go to exclude from the waters of the United States vessels owned in whole or in part by the citizens of either belligerent nation. I was highly delighted the other day on this subject to hear a distinction taken (by Mr. RHEA) between vessels sailing under the flag of the United States, and vessels carrying it. I was pleased with it, because it had all the charm of novelty about it. A merchant vessel was said to sail under, and a public vessel to carry the flag of the United States; and this was stated as a distinction generally known. Whatever maritime writer has laid it down, cannot be much known—indeed I should think it rather difficult for a vessel to sail under a flag which it did not carry. A vessel which carries a flag must sail under it at some time or other. I should doubt whether the gentleman's position be correct; because *flag* is a figurative term. For, in speaking of maritime law and the usages of nations, no gentleman will say when we mention a flag that we mean the piece of bunting carried at the masthead. It is the public manifestation of the national character of the vessel that we mean; and this word is a mere figure of speech for all such manifestations. I must therefore consider that public ships sail under the flag of a nation; and that really if it was proposed to the commander of a vessel to press one of his seamen, he would point to the flag over their heads and, say that was their protection. The waters of the United States are interdicted to any vessel sailing under the flag of Great Britain and France, or owned in whole or in part by any subject or citizen of either. The words are so broad as to comprehend all vessels, whether public or private.

JUNE, 1809.

Massachusetts Contested Election.

H. OF R.

But I have one further objection to this bill, viz: that by it you do permit trade with French trading vessels, thus. There is no prohibition to the furnishing supplies to French vessels. The French vessels, going to sea, go armed and under the authority of their Government; and coming into the ports of this country may be supplied with anything they wish without an infraction of the letter of the law. Let any public armed vessel come into the waters of the United States, and they may purchase whatever they please. There is no law to prohibit it, nor any authority placed in the Government of the United States to prevent them from purchasing. The state of the case now is, that your vessels shall not be cleared out to carry anything to France, but your boats and everything that sails may be employed to carry provisions to French armed ships in your harbors, and they may be completely loaded. If this be the intention of gentlemen, I have nothing further to say; if it be not their intention, they will have in this case, as they have had in others, a very great experience of the disadvantages of undertaking to chop up law.

From these general views of the subject, sir, I am opposed to the passage of the law.

Messrs. PITKIN and QUINCY stated their reasons for voting against the bill.

And on the question, "Shall the bill pass?" it was decided in the affirmative—yeas 72, nays 15, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, Joseph Calhoun, John Campbell, Howell Cobb, James Cochran, Orchard Cook, James Cox, Richard Cutts, John Dawson, Joseph Desha, James Emott, J. W. Eppes, William Findley, Jonathan Fisk, Gideon Gardner, Thomas Gholson, jr., Peterson Goodwyn, Thomas R. Gold, Daniel Heister, William Helms, Jacob Hufty, Robert Jenkins, Richard M. Johnson, William Kennedy, Herman Knickerbacker, Robert Le Roy Livingston, John Love, Matthew Lyon, Aaron Lyle, Robert Marion, Vincent Matthews, Samuel McKee, William Milnor, John Montgomery, Nicholas R. Moore, Thomas Newton, Joseph Pearson, John Porter, Peter B. Porter, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Ebenezer Sage, Thomas Sammons, Daniel Sheffey, John Smilie, George Smith, Samuel Smith, Henry Southard, John Stanley, James Stephenson, Jacob Swoope, John Thompson, Uri Tracy, Nicholas Van Dyke, Archibald Van Horn, Robert Weakley, Laban Wheaton, Robert Whitehill, Ezekiel Whitman, Richard Winn, and Robert Witherspoon.

NAYS—Daniel Blaisdell, John C. Chamberlain, S. W. Dana, John Davenport, jr., William Ely, William Hale, Nathaniel A. Haven, James Holland, Jonathan H. Hubbard, Edward St. Loe Livermore, Nathaniel Macon, Timothy Pitkin, jr., John Ross, Richard Stanford, and John Taylor.

Absent, 54 members.

CONTESTED ELECTION.

The House then took up for consideration the report of the committee on the contested election of WILLIAM BAYLIES—60 to 35.

After debate, a motion was made to postpone it indefinitely. The debate on this subject was continued to a very late hour, many motions of adjournment having been made without success. About 9 o'clock the question was taken on indefinite postponement of the report, and negatived—yeas 45, nays 65, as follows:

YEAS—Daniel Blaisdell, John Campbell, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Samuel W. Dana, John Davenport, jr., William Ely, James Emott, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Richard Jackson, Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Vincent Matthews, Pleasant M. Miller, Wm. Milnor, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Ross, Thomas Sammons, Daniel Sheffey, Jno. Stanley, Wm. Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Uri Tracy, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and Ezekiel Whitman.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Howell Cobb, James Cochran, Orchard Cook, James Cox, William Crawford, Richard Cutts, John Dawson, Joseph Desha, Jno. W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jun., William Helms, James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, Walter Jones, William Kennedy, Aaron Lyle, Samuel McKee, Alexander McKim, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Thos. Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Lemuel Sawyer, Samuel Shaw, John Smilie, George Smith, Samuel Smith, Henry Southard, Richard Stanford, John Thompson, Robert Weakley, Robt. Whitehill, Richard Winn, and Robert Witherspoon.

A motion was then made by Mr. LIVERMORE that the House do now adjourn, and the question being taken thereupon, it was determined in the negative—yeas 39, nays 63.

The question was then stated from the Chair, that the House do agree to the first resolution contained in the report, in the words following, to wit:

"Resolved, That the election held in Plymouth district, in November last, was legal and proper."

A motion was made by Mr. LIVERMORE to amend the resolution, by adding after the words "legal and proper," the words "but not conclusive."

The SPEAKER decided that the motion was not in order, it being a substitute for the resolution under consideration, and that agreeably to the standing rules and orders of the House, no new proposition shall be admitted, under color of amendment, as a substitute for the motion or proposition under debate.

From which decision of the Chair, an appeal

H. OF R.

Post Office Establishment.

JUNE, 1809.

was made to the House; and on the question, "Is the decision of the Chair correct?" it was resolved in the affirmative.

A motion was made by Mr. BIBB, that the first resolution do lie on the table; and the question being taken thereupon, it was determined in the negative.

The question was then taken that the House do agree to the first resolution, as originally proposed by the Committee of Elections; and resolved in the affirmative—yeas 58, nays 13, the SPEAKER declaring himself with the yeas.

YEAS—Lemuel J. Alston, Willis Alston, jr., Wm. Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, James Cochran, Orchard Cook, James Cox, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jun., William Helms, James Holland, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, William Kennedy, Aaron Lyle, Richard McKee, Alexander McKim, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Thomas Newton, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Samuel Shaw, George Smith, Samuel Smith, Archibald Van Horn, Robert Weakley, Robert Whitehill, and Robert Witherspoon.

NAYS—Daniel Blaisdell, Wm. Chamberlin, Samuel W. Dana, Joseph Lewis, jr., Robert Le Roy Livingston, Vincent Matthews, William Milnor, Benjamin Pickman, jr., Josiah Quincy, James Stephenson, Kilian K. Van Rensselaer, Laban Wheaton, and Ezekiel Whitman.

The question was stated from the Chair, that the House do agree to the second resolution contained in the report, in the words following, to wit:

"Resolved, That William Baylies is *not* entitled to a seat in this House."

And the same being taken, there appeared—yeas 56, nays 12.

It having appeared by the foregoing vote that a quorum, consisting of a majority of the whole number of members, was not present, the House adjourned.

WEDNESDAY, JUNE 23.

Mr. MORROW presented a letter from the Secretary of the Treasury, directed to the chairman of the Committee on Public Lands, enclosing a letter from the Register of the Land Office for the Eastern District of Orleans Territory; which were ordered to lie on the table.

Mr. RANDOLPH, from the committee appointed on the first instant, presented a bill providing for the third census or enumeration of the inhabitants of the United States; which was received, and permitted to lie on the table.

Mr. J. G. JACKSON observing that no one was more anxious to adjourn at the time fixed than himself, but that he was certain that the House

could not discuss and decide all the business before them, for the purpose of ascertaining the sense of the House on the subject, moved that the Speakers of the two Houses be authorized to adjourn them on Friday next instead of this day.

This motion was out of order, other motions for the orders of the day having preference, and was therefore not received.

The House concurred in a verbal amendment of the Senate to the bill to amend the "Act for the support of public credit and the redemption of the public debt."

The House resolved itself into a Committee of the Whole, Mr. MACON in the Chair, on the bill to suspend for a limited time the recruiting service.

Mr. J. G. JACKSON moved to strike out the clause, authorizing the President of the United States to renew it if the public service, in his opinion, shall require it.—Carried 48 to 29.

The Committee rose and reported the bill as amended; which was ordered to a third reading, and was subsequently read and passed.

On motion of Mr. CURTIS, the bill from the Senate authorizing the accounting officers of the Treasury to give credit to the collectors of the customs for certain allowances made by them to the owners of fishing vessels, passed through a Committee of the Whole, Mr. BASSETT in the Chair, and was ordered to a third reading; and was then read a third time and passed without opposition.

POST OFFICE ESTABLISHMENT.

Mr. STANFORD said: I have for several days had a resolution to offer to this House, which, from the press of other business, I have not had the opportunity to do. The subject is one so apparently necessary to be taken up, I am persuaded the House will not hesitate to adopt it. I allude to the subject of the Post Office Establishment. In the fifth Congress, it was found necessary to review that Establishment, and remedy many evils which were found to exist in that Department. If then it was found necessary to review the subject generally, and make it one entire system, it is certainly now much more necessary to do the same thing, seeing ten or eleven years have since elapsed, much territory is added to our country, and a great extension of the Establishment taken place. Satisfied I am, said Mr. S., some defects, radical in their nature, exist in the present system; and that it is so, must be obvious to every gentleman of the House. Session after session, for several years, without being able to pass any Post Office law, gentlemen in their places have offered at every session, for some years past, resolutions on this subject, in order to accommodate their constituents. Our constituents themselves have petitioned, and all in vain. We are told the revenue from the Post Office Establishment will not bear any farther increase of roads; nay, that many already established, ought to go down, and thus, the bill receive the go-by; and for this reason, properly enough, no doubt. But, Mr. S. said, he believed a system could be devised,

JUNE, 1809.

Contested Election—Emigrants from Cuba.

H. OF R.

which would so promote economy in that Department, not now practicable as it appeared to him, as that we might add every necessary road, in whatever part of the country it might be desired; and that we can, upon a proper revival of the subject, do much towards bettering the system, as it now appears to go on. I offer the resolution in the words in which it was before offered, and hope it will be adopted.

The resolution is as follows:

Resolved, That the Postmaster General be, and is hereby directed to prepare and report to the House of Representatives, at the next session of Congress, such a system as will enable the House to comprise into one, the several laws which have been made, and are now in force respecting the post offices and post roads within the United States, adding thereto any other roads on which he thinks it expedient to carry a mail; with such additional notes and amendments as, in his opinion, will tend to obviate any difficulties in the transportation of the mail and newspapers.

The House agreed to consider the motion, yeas 50, nays 26—and it was then carried without opposition.

CONTESTED ELECTION.

The House resumed the consideration of the report of the Committee of the Whole on the contested election of WILLIAM BAYLIES. When the House last night, or rather this morning, adjourned for want of a quorum, the following resolution was under consideration:

"Resolved, That William Baylies is not entitled to a seat in this House."

Mr. PICKMAN and Mr. LIVERMORE opposed the resolution, and Mr. MACON supported it; when it was carried—yeas 60, nays 40, as follows:

YEAS—Willis Alston, jr., William Anderson, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Howell Cobb, James Cochran, James Cox, William Crawford, Henry Crist, Richard Cutts, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., William Helms, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, Walter Jones, William Kennedy, Aaron Lyle, Nathaniel Macon, Robert Marion, Samuel McKee, Alexander McKim, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newton, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Samuel Shaw, John Smilie, George Smith, John Smith, Samuel Smith, Richard Stanford, John Taylor, John Thompson, George M. Troup, Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.

NAYS—Daniel Blaisdell, John Campbell, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Samuel W. Dana, William Ely, James Emott, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Richard Jackson, Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Vincent Matthews, John Nicholson, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jr., Josiah Quincy, John Ross, Thomas Sammons, Daniel Sheffey, John Stanley,

William Stedman, James Stephenson, Jacob Swoope, Samuel Taggart, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

The third and last resolution reported by the Committee of Elections is as follows:

"Resolved, That Charles Turner, junior, is entitled to his seat."

Mr. RANDOLPH and Mr. BLAISDELL opposed the resolution, and, on the question, it was carried—yeas 62, nays 41, as follows:

YEAS—Willis Alston, jun., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William Butler, Joseph Calhoun, Matthew Clay, Howell Cobb, James Cochran, Orchard Cook, James Cox, William Crawford, Henry Crist, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jun., William Helms, Benjamin Howard, Jacob Hufty, Richard M. Johnson, Walter Jones, William Kennedy, Aaron Lyle, Nathaniel Macon, Robert Marion, Samuel McKee, Alexander McKim, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newton, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Samuel Shaw, John Smilie, George Smith, John Smith, Samuel Smith, Richard Stanford, John Taylor, John Thompson, George M. Troup, Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.

NAYS—Daniel Blaisdell, John Campbell, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Samuel W. Dana, William Ely, James Emott, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Richard Jackson, Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Vincent Matthews, John Nicholson, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jr., Josiah Quincy, John Randolph, John Ross, Thomas Sammons, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

And CHARLES TURNER, jun., a Representative from Massachusetts, appeared, and took his seat.

EMIGRANTS FROM CUBA.

On motion of Mr. MARION, the House resolved itself into a Committee of the Whole on the bill for the remission of certain fines and penalties.

[This bill provides for the remission of penalties incurred by the captains and owners of vessels which have been compelled to take on board emigrants from Cuba, with their slaves, the landing of the latter in the United States having, under present laws, forfeited the vessels and cargoes and fined the persons concerned.]

Mr. MARION observed that he had, a day or two ago, presented petitions from persons bringing in slaves, amongst which were some documents, one of which was the opinion of the district court of South Carolina, by which it appeared that, if the bill passed in the present shape, no

H. OF R.

Emigrants from Cuba.

JUNE, 1809.

relief would be afforded by it; for, it had not appeared on the trial that the *slaves* were forcibly expelled from the island, though the *owners* were. He therefore moved an amendment to include *slaves* owned by persons who were expelled the island.—Motion agreed to without opposition.

Mr. M. then moved to add a proviso: "*And provided, also, that such slaves shall have been brought in at the same time as their owners, respectively.*"—Agreed to.

Mr. Ross observed that a former act on the subject of the importation of slaves, said that it should not be lawful to bring into the United States any negro, mulatto, or person of color, with intention to sell the same or hold them as slaves. The present case appeared to him to be one in direct violation of that law. Under the act of 1807, it had become the duty of the court to examine whether it was the intention of the parties to infringe or violate the laws. After a fair examination by a court, under a desire to relieve those interested, and a failure of every attempt to show that they were compelled to take on board these slaves, was the House about to sit in judgment and reverse the decision? Mr. R. said that provision was also made in the bill as to slaves that may hereafter arrive in the United States, giving a power to the President of the United States, at his discretion, to set aside the law. What reason could there be for enacting this law, if the principles of the law of 1807 were correct? If it was intended, by a side blow, to repeal that law, he had rather see it done at once; and not, whilst in appearance we had such a law, to give the President a dispensing power over it. It was said that the persons concerned in bringing them in were distressed. How distressed? Only because they could not prove they were compelled to bring them into the country. Mr. R. said he did not wish to irritate the feelings of gentlemen from any portion of the Union, but he was sorry to see a bill introduced to unsettle what he conceived to be a valuable provision, enacted some sessions ago.

Mr. NEWTON said he felt as much repugnance as the gentleman from Pennsylvania to touch that law; but, if the gentleman would consider that this was a case of a peculiar nature, attended with singular circumstances, he would withdraw his objection. And he verily believed, that had the Legislature foreseen what had taken place, they would certainly have inserted a provision to meet the case which had occurred. Let it be recollected, said he, that the unfortunate Frenchmen driven on our coast, were sometime ago driven from St. Domingo, and were obliged to take shelter at Cuba. Since the commencement of the war in Spain, Cuba has almost witnessed the same scenes as St. Domingo. These people were forced to leave the island in distress, and take what portion of property they could collect. They could not go to France, because no vessels of that country were permitted to touch at the island of Cuba, neither could they go to the French islands in the West Indies. There was no country open to them but America. The

American captains, then, were forced to take the French on board, and with them, a few body servants; and, under the former law, these vessels are seized, and liable to forfeiture, our merchants to suffer the loss of vessel and cargo, and the poor emigrants to lose all their little property. Let it be recollected that the law of 1807 does not interfere with the State rights on the subject. This bill only goes so far as to remit all fines and penalties incurred by the captains of vessels, and release the property which would otherwise be condemned, and relieve the perfectly innocent merchants who would otherwise suffer. Let us say to these unfortunates, as Dido to Æneas, when he was exiled from Troy: "I have suffered misfortune myself, and therefore know how to extend the hand of relief to others."

Mr. MARION said that if the gentleman from Pennsylvania (Mr. Ross) thought that he had a wish or intention to increase the number of slaves, he was much mistaken. The laws of South Carolina prohibited the bringing these slaves, or any other, into the State; yet they had been brought there, and the persons bringing them there must give security that they would have them carried out of the State. Now, by the non-intercourse law, the State was prevented from sending them away; they would, of course, remain here till the law permitted them to be sent off, for they could go nowhere but to France and her dependencies, France being at war with all the rest of the world. Mr. M. said that there were several captains now in jail under sentence of court for having brought those people into the country; he submitted to the House whether, under the circumstances of the case, the captains had not good reason to suppose that they would not be subject to the penalty of the law. The law prohibiting the importation of slaves was of a highly penal nature, and different from all other laws of that nature, having no clause in it giving a power of remission of penalties; and this bill was guarded in such a manner that no evil could arise.

Mr. MACON said it was certainly true that the Southern country wanted no more slaves. The sole object of the bill was to get them away. However desirous the people might be to hold that property, there could be no fear of their wanting them from the West Indies.

Mr. MONTGOMERY said it was peculiarly necessary to pass this bill to get rid of the immense number of slaves brought into New Orleans; for every one must know that they were not wanted there. They were too numerous to continue there, and this bill was intended to make provision for their exportation.

Mr. NEWTON produced a letter from the Collector of New Orleans on this subject.

Mr. TAYLOR said it never could have been the intention or spirit of the law of 1807 to increase our population in free blacks. It was not to set free the people of this description that the law had been passed, but to prevent them from being brought here at all. For even in Pennsylvania he had no doubt the gentleman would be content to have no further population of this sort. Mr.

JUNE, 1809.

Cumberland Road—Impartial Jury.

H. OF R.

T. said he knew that in the Southern States there was an extreme aversion to receiving an additional free black population. The intent of this bill, so far from being in hostility to the law quoted by the gentleman from Pennsylvania, was in furtherance of it. It was to remove them out of the country.

Mr. Ross said that it was strange that the House should have a bill before it contemplating the removal of a certain description of persons out of the country, when nothing of the kind appeared on the face of it. If that was its intention, there should be a condition that the persons bringing in these slaves should carry them out again.

Mr. NEWTON observed that unless this law passed, the inevitable consequence must be that the negroes must remain here. He did not want them; they brought principles which it was known would not promote our interest or happiness.

The Committee then rose and reported the bill.

Mr. NEWTON moved a new section for the relief of Foster and Girard, of New York, whose ship had been forfeited under the law prohibiting the importation of slaves.—Agreed to.

And the bill was ordered to a third reading, and subsequently passed without opposition.

CUMBERLAND ROAD.

The House resolved itself into a Committee of the Whole, on the bill (from the Senate) in addition to the act, entitled "An act for laying out and making a turnpike road from Cumberland, Maryland, to the State of Ohio."

The bill proposed to appropriate \$60,000 towards that object.

Mr. J. G. JACKSON observed that it would be impossible to complete the turnpike road originally, and now contemplated by the act to which this is a supplement, under an expense of a million of dollars, which would never accrue probably from the funds set aside for this object. He therefore moved the following section as an amendment:

"And be it further enacted, That the President be authorized to apply the moneys to the improvement of the road as may be most expedient, without contemplating a turnpike road."

This motion was opposed by Messrs. LYON, SMILIE, and EPPES, and supported by Messrs. J. G. JACKSON and ROSS.

In favor of the motion it was contended that the money applicable to this object would never be competent to the making a turnpike road, which must cost from six to ten thousand dollars per mile; that turnpikes made for less were no better than common country roads, and would not bear a heavy team; that the sum proposed by the bill would not suffice for turnpiking more than eight or ten miles, whilst it would open a passable road of the common description the whole distance; that the turnpike roads which were made at a less expense than five thousand dollars a mile were good for nothing, and broken up by each successive Winter; that the House

would pledge themselves by the passage of the present bill to complete the turnpike, whatever might be the expense; that it was to be hoped they would not act like the celebrated projector who undertook to build a bridge across a river, and, his funds failing, built it only half way across, and when asked how the passengers were to get over the remainder of the distance, replied that they might swim it.

To this it was replied by the opponents of the amendment that Congress were already pledged by their law, to the State of Ohio, to make a turnpike road; that it would be improper in this incidental way to repeal a solemn law; that sixty thousand dollars would complete a turnpike across the mountains, and the people of Ohio were ready and willing to complete the remainder by companies or otherwise; that turnpike had been made in Pennsylvania or New York for one thousand dollars a mile, and could certainly be made as cheap in this direction, where materials were cheaper and in plenty; that Congress were bound to make a turnpike road, and such a one as should be passable in Winter as well as Summer, which would not be the case if the amendment was adopted.

The amendment was negatived in Committee without a division.

The Committee rose, and Mr. JACKSON renewed his motion. Before a decision could be had, the bill was ordered to lie on the table to receive a motion for adjournment until six o'clock.

IMPARTIAL JURY.

Mr. RANDOLPH, from the committee appointed on the first instant, presented a bill to secure an impartial jury in all cases, civil and criminal, maintained in the courts of the United States; which was received, and permitted to lie on the table. The bill is as follows:

A bill to secure an impartial jury in all cases, civil and criminal, maintained in the courts of the United States.

Be it enacted, &c., That the judges of the superior, circuit, or district courts of each of the States respectively shall, during the sitting of the courts holden by such judges, designate, out of the persons qualified to serve as jurors within such State, and residing within the jurisdiction of the court so holden as aforesaid, a number not exceeding —, to serve as jurors for the courts of the United States for the district within which such State courts shall be holden; the said designation to be made at convenient times, at least twice within each year, and the names of the parties so designated to be returned to the clerk's office of the court of the United States at least — days previous to the commencement of any term of the circuit court, or of any regular term of the district court. And it shall be the duty of the marshals of the respective districts to summon the persons so designated as aforesaid to attend as jurors on the circuit and district courts of the United States next to be holden after the return aforesaid. And if the number of persons so designated and returned and summoned and appearing shall exceed —, it shall be the duty of the marshal to cause the number to be reduced by lot under the direction and in the presence of the court to a number not ex-

ceeding —, out of which the juries for the court then holden, and to be holden within the next six months ensuing shall be selected by the marshal, subject to such right of challenge and exception as now does or may hereafter exist by law.

ARTICLES OF WAR.

Mr. RANDOLPH, from the committee appointed on the twenty-seventh ultimo, presented a bill to amend the act, entitled "An act for establishing rules and articles for the government of the armies of the United States;" which was received, and permitted to lie on the table. The bill is as follows:

A bill to amend the act entitled "An act for establishing rules and articles for the government of the armies of the United States."

Be it enacted, &c., That, from and after the passing of this act, the following punishment and none other shall be inflicted by sentence of courts martial for any offence arising under the act, entitled an act for establishing rules and articles for the government of the armies of the United States, to wit: Confinement to hard labor, with or without a suspension of pay; solitary confinement, with or without a suspension of pay, and a suspension of subsistence in part; banishment with disgrace; and death.

The following letter accompanied the bill reported on the subject of the articles of war:

WAR DEPARTMENT, June 8, 1809.

SIR: In answer to your inquiry respecting a commutation of the punishment provided by the 87th section of the rules and articles for the government of the armies of the United States, the following opinion, founded on the practice of other armies, and on the practice of our own Army and country, is respectfully submitted for the consideration of the committee:

"Confinement to labor, with or without a suspension of pay; solitary confinement, with or without a suspension of pay, and a suspension of subsistence in part; banishment with disgrace; and death, may by law be established as the four general punishments for crimes."

At the same time it will be necessary to empower the courts to inflict corporal punishments not exceeding — strokes or lashes, (and this number ought to exceed the present provision of the statute,) in cases where either of the two first mentioned punishments have proved ineffectual, or on characters so depraved, in the judgment of the court, as to merit this mark of degradation, or under circumstances where confinement is incompatible with the situation of the troops.

I am, very respectfully, &c., W. EUSTIS.

Several motions were made for printing the report on public expenditure, by Messrs. MONTGOMERY, RANDOLPH, and MACON, before it was in order. The motion was at length made and carried, and the House adjourned to six o'clock.

Evening Session.

The bill from the Senate making an appropriation for completing and finishing the permanent Senate Chamber, passed through a Committee of the Whole, without opposition, and was read a third and passed.

Mr. J. G. JACKSON called for the consideration of the bill respecting the Ohio road.—Motion negatived, ayes 32.

NEW ORLEANS BATTURE.

Mr. SAWYER moved that the House resolve itself into a Committee of the Whole on Mr. SHEFFEY's resolutions relative to the batture. [They propose the restoration of the property to the persons removed from it.]

Mr. J. MONTGOMERY moved to postpone the consideration of the subject indefinitely. The motion was negatived, ayes 25.

The House then agreed to resolve itself into a Committee of the Whole, 51 to 27, on Mr. SHEFFEY's resolutions.

Mr. VARNUM hoped that the Committee would immediately rise and report progress. It appeared to him impossible that the House could carry into effect a principle of this kind, in which some of the dearest interests of the country were involved, without great deliberation. He was clearly of opinion, as it must be evident to every one, that it was impossible for the House to act on them with that deliberation they required, at this period of the session, when it was scarcely possible to keep a quorum in the House.

Mr. LEWIS thought that there could be no interest more dear than the right of the citizen. He could not conceive that the time of the House could be better employed than in the discussion of an important claim for a redress of grievances of a citizen of the United States. There was time enough between this time and 12 o'clock to discuss this and every other subject necessary to be acted on.

Mr. SMILIE said that if the House undertook to decide this question in this way, it would be a piece of extravagance greater than he had ever witnessed in a deliberative body.

Mr. ROSS said that the objection to going into a discussion at this late hour did not apply to this subject, because a discussion had already been had. It is true, said he, that the present question is presented in a very different shape; but, as far as I have before understood, it was the sense of the House that a reference to the Attorney General was improper. Let gentlemen recollect that they have contended that it was improper to postpone the consideration of a petition first presented at this session, whilst this had been pending many sessions. The right of the citizen too is involved in this case; and all appear to agree in the opinion that the law of 1807 was not intended to affect persons situated as the petitioner was. This House, then, is in justice called upon to place the petitioner in a situation from which the law never intended to remove him. To refuse to do it would be to treat a citizen contrary to the rules of equity.

Mr. GHOLSON was astonished, the subject having been fully discussed, that the gentleman from Pennsylvania should have occupied so much time on it. He hoped that the question would be decided immediately.

Mr. TAYLOR said that it was not in evidence before the House that the claim in question had been registered. The application to have it registered after the legal time had expired was almost proof of a defect in the title, and upon this

JUNE, 1809.

Adjournment.

H. OF R.

ground discussion might be extended to an infinite length. Mr. T. maintained that this petitioner had no further claim to the property in dispute, than a thousand others who, from ignorance, had not had their claims registered in due time. This however was a topic on which he would not dwell. He would only incidentally observe that the petitioner was not the first person who had been dispossessed even of that kind of possession which a duck has of the Potomac when it alights on the river, and which, when the tide falls, is left on the beach. Mr. T. said that there had been citizens of Tennessee expelled by the whole settlement from the lands on which they had pitched their tents, whilst their crops were growing. The case was therefore not new, and no peculiar hardship distinguished it.

But there was another topic which had not been introduced, viz: that the court of New Orleans had palpably exceeded the powers granted to them as judges of the Territory. The ordinance for the government of the Northwestern Territory, passed before the United States obtained possession of Louisiana, had been extended to the Territory of Orleans. All the power delegated to the court of New Orleans was a common law jurisdiction. I venture to say, observed he, that in the proceedings of the court in relation to this contested property, it has taken upon itself chancery or civil law jurisdiction. They have transgressed the powers given them. All the claim to this bank, which is half the year the bed of the river, derived from the decision of that court, falls to the ground, when it is found that the court has mistaken its jurisdiction and transcended its powers. The delegate from Orleans had attempted to be understood; and, if understood, his observations would have had their effect. He, said Mr. T., has told you that this piece of land under water; this piece of batture, has not yet arrived to that state of alluvion, which would authorize its being made a ground of claim as territory. It is not only under water, but is the common highway of the Ohio and Kentucky boats. But the land is sometimes uncovered, and so sometimes is the bottom of the bay of Charleston. And, according to the doctrine set up now, if some unfortunate shipwrecked mariner should lay his hand on it in that situation, his descendants might lay claim to it as their property. Who would think the claim plausible? No one; and yet it would be nearly as feasible as the claimant's appears to be.

I can say that there are thousands who have lost the right to show their titles in a court because they have not registered them within the time prescribed by law—and such is the situation of this petitioner, if he had a title. If you will take this case into consideration, erect a tribunal for the consideration of the many similar cases. In a particular part of the House I can find unanimity on this subject. The same part declared the embargo laws unconstitutional. A. B. might have had property in port, and by having his vessels prevented from sailing might have encountered an immense loss. And if this cry of un-

constitutionality were to have weight, we must take up every hard case, and establish a special tribunal to reimburse to individuals the immense sums which they imagine they have lost. I do not say that they are unconstitutional, but that part of the House unanimous on this subject are also unanimous in this opinion. Should I then select this case when there are others equally strong and perhaps more meritorious?—

At this moment a message was received from the Senate and Mr. TAYLOR took his seat, and the Committee rose to give the House an opportunity to consider the message.

A message was received from the Senate informing the House that they were ready to adjourn, and had appointed Messrs. POPE and BRENT a committee on their part to wait on the President, and inform him that they are ready to adjourn. The House concurred in appointing a committee, and Messrs. ROOT and CRAWFORD were named for that purpose.

On motion of Mr. RANDOLPH, the Committee of the Whole were discharged from the further consideration of the subject of the batture, with a view to take it up in the House.

Mr. RANDOLPH then called for the consideration of Mr. SHEFFEY's resolutions.

On the first count, there were, for it 29, against it, 33.—No quorum.

On the second count, for it, 34, against it, 35.—No quorum.

On the third count, 37 to 37—a tie, and another count called.

On the fourth count, for it 37, against it, 33.—No quorum.

A call of the names was then ordered, (eight o'clock,) and the names being called, it appeared that the following gentlemen were present:

Messrs. Anderson, Bacon, Blaisdel, Boyd, J. Brown, R. Brown, Burwell, Butler, Calhoun, J. C. Chamberlain, Crist, Cutts, Dana, Dawson, Desha, Ely, Emott, Eppes, Findley, Fisk, Gannett, Gardner, Gholson, Gold, Hale, Haven, Heister, Helms, Holland, Howard, Hubbard, Hufty, J. G. Jackson, R. Jackson, Johnson, Kennedy, Knickerbacker, Lewis, Livermore, Livingston, Lyon, Lyle, Marion, McBride, McKee, McKim, Milnor, Montgomery, N. R. Moore, Morrow, Newton, Nicholson, Pearson, Randolph, Rea of Pennsylvania, Rhea of Tennessee, Richards, Roane, Root, Ross, Sage, Sawyer, Smilie, G. Smith, Sturges, Swoope, Taggart, Taylor, Thompson, Tracy, Turner, Van Dyke, Van Horn, Van Rensselaer, Weakley, Whitman, and Wilson—75.

And another count being made on the above question, the votes were 34 to 34.—No quorum.

Mr. ROOT reported that the committee had waited on the President according to order, who was pleased to say that he had no further communications to make.

About nine o'clock, all the bills having been enrolled and signed, a motion was made to adjourn, and carried; and the SPEAKER, after wishing the members of the House a pleasant journey home, and a happy meeting with their friends, adjourned the House to the fourth Monday in November next.

PROCEEDINGS AND DEBATES

OF

THE SENATE OF THE UNITED STATES,

AT THE SECOND SESSION OF THE ELEVENTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, NOVEMBER 27, 1809.

MONDAY, November 27, 1809.

Conformably to the act passed at the last session, entitled, "An act to fix the time for the next meeting of Congress," the second session of the eleventh Congress commenced this day; and the Senate assembled, in their Chamber, at the City of Washington.

PRESENT:

NICHOLAS GILMAN, from New Hampshire.
TIMOTHY PICKERING, from Massachusetts.
CHAUNCEY GOODRICH, from Connecticut.
STEPHEN R. BRADLEY and JONATHAN ROBINSON, from Vermont.

JOHN LAMBERT, from New Jersey.
ANDREW GREGG and MICHAEL LEIB, from Pennsylvania.

WILLIAM B. GILES, from Virginia.
JAMES TURNER, from North Carolina.
THOMAS SUMTER and JOHN GAILLARD, from South Carolina.

BUCKNER THRUSTON and JOHN POPE, from Kentucky.

RETURN JONATHAN MEIGS and STANLEY GRISWOLD, from Ohio.

The number of Senators present not being sufficient to constitute a quorum, the Senate adjourned to 11 o'clock to-morrow morning.

TUESDAY, November 28.

The Senate assembled—present as yesterday; and OBEDIAH GERMAN, from the State of New York; JAMES HILLHOUSE, from the State of Connecticut; ELISHA MATHEWSON, from the State of Rhode Island; and NAHUM PARKER, from the State of New Hampshire, severally attended.

ANDREW GREGG, President *pro tempore*, resumed the Chair.

The PRESIDENT communicated a letter from the Surveyor of the Public Buildings, stating the difficulties that have prevented the entire completion of the permanent Senate Chamber; which letter was read.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and ready to attend to business.

Ordered, That Messrs. GILMAN and GAILLARD be a committee on the part of the Senate, together with such committee as may be appointed by the House of Representatives on their part, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

Ordered, That the Secretary acquaint the House of Representatives therewith.

A message from the House of Representatives informed the Senate that the House have appointed a committee, on their part, jointly, with such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

Resolved, That each Senator be supplied, during the present session, with three such newspapers printed in any of the States as he may choose, provided that the same be furnished at the usual rate for the annual charge of such papers: and, provided also, that, if any Senator shall choose to take any newspapers other than daily papers, he shall be supplied with as many such papers as shall not exceed the price of three daily papers.

Resolved, That James Mathers, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper to the Senate; and that the sum of twenty-eight dollars be allowed him weekly for that purpose, to commence with, and remain during the session, and for twenty days after.

Mr. GILMAN reported, from the joint committee, that they had waited on the President of the United States, agreeably to order, and that the President of the United States informed the committee that he would make a communication to the two Houses to-morrow, at 12 o'clock.

WEDNESDAY, November 29.

JAMES LLOYD, from the State of Massachusetts, attended.

The letter from the Surveyer of the Public Buildings, communicated yesterday, was referred to a select committee, to consider and report thereon; and Messrs. BRADLEY, LLOYD, and LEIB, were appointed the committee.

PRESIDENT'S MESSAGE.

The following Message was received from the
PRESIDENT OF THE UNITED STATES:

*Fellow-citizens of the Senate, and
of the House of Representatives:*

At the period of our last meeting, I had the satisfaction of communicating an adjustment with one of the principal belligerent nations, highly important in itself, and still more so, as presaging a more extended accommodation. It is with deep concern, I am now to inform you, that the favorable prospect has been overclouded by a refusal of the British Government to abide by the act of its Minister Plenipotentiary, and by its ensuing policy towards the United States, as seen through the communications of the Minister sent to replace him.

Whatever pleas may be urged for a disavowal of engagements formed by diplomatic functionaries, in cases where, by the terms of the engagements, a mutual ratification is reserved; or where notice at the time may have been given of a departure from instructions; or, in extraordinary cases, essentially violating the principles of equity; a disavowal could not have been apprehended in a case where no such notice or violation existed; where no such ratification was reserved; and, more especially, where, as is now in proof, an engagement, to be executed, without any such ratification, was contemplated by the instructions given, and where it had, with good faith, been carried into immediate execution on the part of the United States.

These considerations not having restrained the British Government from disavowing the arrangement, by virtue of which its Orders in Council were to be revoked, and the event authorizing the renewal of commercial intercourse having thus not taken place, it necessarily became a question of equal urgency and importance, whether the act prohibiting that intercourse was not to be considered as remaining in legal force. This question being, after due deliberation, determined in the affirmative, a proclamation to that effect was issued. It could not but happen, however, that a return to this state of things, from that which had followed an execution of the arrangement by the United States, would involve difficulties. With a view to diminish these as much as possible, the instructions from the Secretary of the Treasury, now laid before you, were transmitted to the collectors of the several ports. If, in permitting British vessels to depart without giving bonds not to proceed to their own ports, it should appear that the tenor of legal authority has not been strictly pursued, it is to be ascribed to the anxious desire which was felt, that no individuals should be injured by so unforeseen an occurrence: and I rely on the regard of Congress for the equitable interests of our own citizens, to adopt whatever further provisions may be found requisite for a general remission of penalties involuntarily incurred.

The recall of the disavowed Minister having been followed by the appointment of a successor, hopes were indulged that the new mission would contribute to alleviate the disappointment which had been produced, and to remove the causes which had so long embarrassed the good understanding of the two nations. It

could not be doubted that it would at least be charged with conciliatory explanations of the step which had been taken, and with proposals to be substituted for the rejected arrangement. Reasonable and universal as this expectation was, it also has not been fulfilled. From the first official disclosures of the new Minister, it was found that he had received no authority to enter into explanations relative to either branch of the arrangement disavowed, nor any authority to substitute proposals, as to that branch which concerned the British Orders in Council. And, finally, that his proposals with respect to the other branch, the attack on the frigate Chesapeake, were founded on a presumption, repeatedly declared to be inadmissible by the United States, that the first step towards adjustment was due from them; the proposals, at the same time, omitting even a reference to the officer answerable for the murderous aggression, and asserting a claim not less contrary to the British laws and British practice, than to the principles and obligations of the United States.

The correspondence between the Department of State and this Minister will show how unessentially the features presented in its commencement have been varied in its progress. It will show, also, that, forgetting the respect due to all Governments, he did not refrain from imputations on this, which required that no further communications should be received from him. The necessity of this step will be made known to His Britannic Majesty, through the Minister Plenipotentiary of the United States in London. And it would indicate a want of the confidence due to a Government which so well understands and exacts what becomes foreign Ministers near it, not to infer that the misconduct of its own Representative will be viewed in the same light in which it has been regarded here. The British Government will learn, at the same time, that a ready attention will be given to communications, through any channel which may be substituted. It will be happy, if the change in this respect should be accompanied by a favorable revision of the unfriendly policy which has been so long pursued towards the United States.

With France, the other belligerent, whose trespasses on our commercial rights have long been the subject of our just remonstrances, the posture of our relations does not correspond with the measures taken on the part of the United States to effect a favorable change. The result of the several communications made to her Government, in pursuance of the authorities vested by Congress in the Executive, is contained in the correspondence of our Minister at Paris, now laid before you.

By some of the other belligerents, although professing just and amicable dispositions, injuries materially affecting our commerce have not been duly controlled or repressed. In these cases, the interpositions deemed proper, on our part, have not been omitted. But, it well deserves the consideration of the Legislature, how far both the safety and the honor of the American flag may be consulted, by adequate provisions against that collusive prostitution of it by individuals, unworthy of the American name, which has so much favored the real or pretended suspicions, under which the honest commerce of their fellow-citizens has suffered.

In relation to the Powers on the coast of Barbary, nothing has occurred which is not of a nature rather to inspire confidence than distrust, as to the continuance of the existing amity. With our Indian neighbors, the just and benevolent system, continued towards them,

NOVEMBER, 1809.

Foreign Relations.

SENATE.

has also preserved peace, and is more and more advancing habits favorable to their civilization and happiness.

From a statement which will be made by the Secretary of War, it will be seen that the fortifications on our maritime frontier, are, in many of the ports, completed, affording the defence which was contemplated; and that a further time will be required to render complete the works in the harbor of New York, and in some other places. By the enlargement of the works, and the employment of a greater number of hands at the public armories, the supply of small arms, of an improving quality, appears to be annually increasing, at a rate that, without those made on private contract, may be expected to go far towards providing for the public exigency.

The act of Congress providing for the equipment of our vessels of war having been fully carried into execution, I refer to the statement of the Secretary of the Navy for the information which may be proper on that subject. To that statement is added a view of the transfers of appropriations, authorized by the act of the session preceding the last, and of the grounds on which the transfers were made.

Whatever may be the course of your deliberations on the subject of our Military Establishments, I should fail in my duty in not recommending to your serious attention the importance of giving to our militia, the great bulwark of our security and resource of our power, an organization the best adapted to eventual situations, for which the United States ought to be prepared.

The sums which had been previously accumulated in the Treasury, together with the receipts during the year ending on the 30th of September last, and amounting to more than nine millions of dollars, have enabled us to fulfil all our engagements, and to defray the current expenses of Government, without recurring to any loan. But the insecurity of our commerce, and the consequent diminution of the public revenue, will probably produce a deficiency in the receipts of the ensuing year, for which, and for other details, I refer to the statements which will be transmitted from the Treasury.

In the state which has been presented of our affairs with the great parties to a disastrous and protracted war, carried on in a mode equally injurious and unjust to the United States as a neutral nation, the wisdom of the National Legislature will be again summoned to the important decision on the alternatives before them. That these will be met in a spirit worthy of the councils of a nation conscious both of its rectitude and of its rights, and careful as well of its honor as of its peace, I have an entire confidence. And that the result will be stamped by a unanimity becoming the occasion, and be supported by every portion of our citizens, with a patriotism enlightened and invigorated by experience, ought as little to be doubted.

In the midst of the wrongs and vexations experienced from external causes, there is much room for congratulation on the prosperity and happiness flowing from our situation at home. The blessing of health has never been more universal. The fruits of the seasons, though in particular articles and districts short of their usual redundancy, are more than sufficient for our wants and our comforts. The face of our country everywhere presents the evidence of laudable enterprise, of extensive capital, and of durable improvement. In a cultivation of the materials, and the extension of useful manufactures, more especially in the general appli-

cation to household fabrics, we behold a rapid diminution of our dependence on foreign supplies. Nor is it unworthy of reflection, that this revolution in our pursuits and habits is in no slight degree a consequence of those impolitic and arbitrary edicts, by which the contending nations, in endeavoring, each of them, to obstruct our trade with the other, have so far abridged our means of procuring the productions and manufactures, of which our own are now taking the place.

Recollecting, always, that, for every advantage which may contribute to distinguish our lot from that to which others are doomed by the unhappy spirit of the times, we are indebted to that Divine Providence whose goodness has been so remarkably extended to this rising nation, it becomes us to cherish a devout gratitude, and to implore, from the same Omnipotent Source, a blessing on the consultations and measures about to be undertaken for the welfare of our beloved country.

JAMES MADISON.

NOVEMBER 29, 1809.

The Message and documents therein referred to were read, and five hundred copies of the Message, and also five hundred copies of the Message together with five hundred copies of the documents, were ordered to be printed for the use of the Senate.

On motion, by Mr. GOODRICH,

Resolved, unanimously, That the members of the Senate, from a sincere desire of showing their respect to the memory of the Honorable SAMUEL WHITE, deceased, late a member thereof, will go into mourning for one month, by the usual mode of wearing a crape round the left arm.

THURSDAY, November 30.

PHILIP REED, from the State of Maryland, attended.

JOHN CONDIT, appointed a Senator by the Legislature of the State of New Jersey, in the place of Aaron Kitchel, resigned, produced his credentials, which were read; and, the oath prescribed by law having been administered to him, he took his seat in the Senate.

On motion of Mr. MEIGS,

Resolved, That two Chaplains, of different denominations, be appointed to Congress during the present session, one by each House, who shall interchange weekly.

FOREIGN RELATIONS.

The following motion was submitted, by Mr. GILES, for consideration:

Resolved, That so much of the Message of the President of the United States as respects the relations existing between the United States and Great Britain and France, with the accompanying documents, be referred to a select committee, with instructions to examine the same and report thereon to the Senate; and that the committee have leave to report by bill, bills, or otherwise.

Mr. GILES introduced the foregoing resolution with observing, in substance, that in presenting the resolution to the consideration of the Senate, he did not mean at this time to suggest any specific course of proceeding, as proper to be observed upon the very delicate and interesting topics embraced by it; nor to pledge himself upon present-

ing any specific proposition, for the final adoption of the Senate; but he was induced to introduce the subject at this early period of the session, because he was deeply impressed with the importance of the disclosures made in the Message, and the accompanying documents; as they respect the interests, the character, and even the independence of the United States. He conceived that considerations so vitally interesting to the nation certainly demanded the most prompt attention, and most serious animadversion of Congress. He had presented the resolution in this generalized form, to give the Committee the freest range in devising and reporting measures, suited to the difficulty and delicacy of the crisis.

FRIDAY, December 1.

The Senate resumed the consideration of the motion submitted yesterday by Mr. GILES; and

Resolved, That so much of the Message of the President of the United States as respects the relations existing between the United States and Great Britain and France, with the accompanying documents, be referred to a select committee, with instructions to examine the same, and report thereon to the Senate; and that the committee have leave to report by bill, bills, or otherwise; and,

Ordered, That Messrs. GILES, POPE, BRADLEY, GOODRICH, LEIB, SUMTER, and GILMAN, be the committee.

The following motion was submitted by Mr. LEIB:

Resolved, That so much of the Message of the President of the United States as relates to an efficient organization of the militia of the United States be referred to a select committee, with leave to report by bill or otherwise.

On motion of Mr. BRADLEY,

Resolved, That a committee be appointed agreeable to the 22d rule for conducting business in the Senate; and,

Ordered, That Messrs. GILMAN, GRISWOLD, and MATHEWSON, be the committee.

MONDAY, DECEMBER 4.

RICHARD BRENT, from the State of Virginia, and WILLIAM H. CRAWFORD, from the State of Georgia, severally attended.

SAMUEL SMITH, appointed a Senator by the Legislature of the State of Maryland from the 15th of November, 1809, to the 4th of March, 1815, produced his credentials, which were read; and the oath prescribed by law having been administered to him, he took his seat in the Senate.

A message from the House of Representatives informed the Senate that the House concur in the resolution of the Senate of the 30th of November, for the appointment of Chaplains, and have appointed the Rev. JESSE LEE Chaplain on their part.

AMENDMENT TO THE CONSTITUTION.

Mr. POPE offered the following resolution, prefacing it by observing that in several courts of the United States business had been interrupted

and delayed in consequence of the age and infirmities of judges presiding in them. At the last session of Congress an attempt had been made to permit the retirement of Judges from the bench with a moderate compensation; but it appeared that there could be no other remedy for the evil but an amendment to the Constitution. He had therefore been induced to make the motion, which was loudly called for by the existing state of things.

"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following section be submitted to the Legislatures of the several States, which, when ratified and confirmed by the Legislatures of three-fourths of the States, shall be valid and binding, as a part of the Constitution of the United States, in lieu of the first section of the third article thereof.

"The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behaviour, or until they shall have respectively attained the age of sixty-five years. But for any reasonable cause, which shall not be sufficient ground of impeachment, the President shall remove any of them, on the address of — of each House of Congress: Provided, however, That the cause or causes for which such removal may be required shall be stated in such address and on the Journal of each House. They shall at stated times receive for their services an adequate compensation, to be fixed by law."

TUESDAY, December 5.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I now transmit a report of the Secretary of the Navy, containing statements from that Department, referred to in my Message of the 29th ultimo.

JAMES MADISON.

The Message and report were read and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the transportation of certain documents free of postage;" in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

The Senate resumed the consideration of the motion made on the 1st instant by Mr. LEIB; and

Resolved, That so much of the Message of the President of the United States as relates to an efficient organization of the militia of the United States be referred to a select committee, with leave to report by bill or otherwise.

Ordered, That Messrs. SMITH, of Maryland, LEIB, BRADLEY, SUMTER, and GERMAN, be the committee.

The Senate proceeded to the election of a Chaplain, on their part, in pursuance of the resolution of the two Houses, and the whole number of votes

DECEMBER, 1809.

Conduct of the British Minister.

SENATE.

collected was twenty-two, of which the Reverend Mr. BROWN had twelve, and was accordingly elected.

THE BRITISH MINISTER.

Mr. GILES, from the committee appointed on the first instant, reported in part the following resolution; which was read the first time, and passed to the second-reading:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the expressions contained in the official letter of Francis James Jackson, Minister Plenipotentiary of His Britannic Majesty near the United States, dated the 23d day of October, 1809, and addressed to Mr. Smith, Secretary of State, conveying the idea, that the Executive Government of the United States had knowledge that the arrangement lately made by Mr. Erskine, his predecessor, on behalf of his Government, with the Government of the United States, was entered into without competent powers on the part of Mr. Erskine for that purpose, were highly indecorous and insolent; that the repetition of the same intimation in his official letter dated the 4th of November, 1809, after he was apprized, by the asseveration of the Secretary of State, that the Executive Government had no such knowledge, and that if it had possessed such knowledge such arrangement would not have been entered into on the part of the United States, and after also being officially apprized that such intimation was inadmissible; was still more insolent and affronting; and that, in refusing to receive any further communications from him in consequence of these outrageous and premeditated insults, the Executive Government has manifested a just regard to its own dignity and honor, as well as to the character and interest of the American people.

That the letters signed Francis James Jackson, headed "Circular," dated the 13th of November, 1809, and published and circulated through the country, is a still more direct and aggravated insult and affront to the American people and their Government, as it is evidently an insidious attempt to excite their resentments and distrusts against their own Government, by appealing to them, through false or fallacious disguises, against some of its acts; and to excite resentments and divisions amongst the people themselves, which can only be dishonorable to their own characters and ruinous to their own interests; and the Congress of the United States do hereby solemnly pledge themselves to the American people and to the world to stand by and support the Executive Government in its refusal to receive any further communications from the said Francis James Jackson, and to call into action the whole force of the nation if it should become necessary in consequence of the conduct of the Executive Government in this respect to repel such insults and to assert and maintain the rights, the honor, and the interests of the United States.

PRIVILEGES OF FOREIGN MINISTERS.

Mr. GILES, from the same committee, also reported the following bill, which was read and passed to a second reading:

A bill to prevent the abuse of the privileges and immunities enjoyed by Foreign Ministers within the United States.

Be it enacted &c., That if any foreign Ambassador, Minister, or other person, entitled to enjoy within the United States the privileges and immunities of a foreign

Minister, shall have committed, or may hereafter commit, any such act as by the laws and usages of nation would justify the President of the United States in ordering such offending Ambassador, Minister, or other person as aforesaid, out of the District of Columbia, or out of the Territories of the United States; or in sending him home to his Sovereign, or to some place or territory within his Sovereign's jurisdiction; in every such case where the President of the United States shall deem it proper and expedient to exercise his Constitutional authority, in either of these respects he shall be, and is hereby authorized and empowered to cause a warrant to be issued and signed by the Secretary of State, directed to any civil officer of the United States authorized to serve process, or any military officer under the authority of the United States, commanding him to provide for and enforce the departure of such Ambassador, Minister, or other person offending as aforesaid, taking due precautions to avoid improper or unnecessary violence in executing such warrant. And all officers, civil and military, under the authority of the United States, are hereby required and enjoined to be obedient to such warrant. And in case any officer, civil or military, to whom such warrant shall be directed, shall fail, or unreasonably delay to execute the same, every officer so offending shall be deemed guilty of a high misdemeanor, and shall be punished by fine and imprisonment before any court of the United States having cognizance of the offence. *Provided,* That the fine shall not exceed — dollars, nor the imprisonment be for a longer time than — years.

Mr. GILES gave notice that he should call for the consideration of this subject on Thursday next.

WEDNESDAY, December 6.

The resolution reported yesterday from the committee appointed on that part of the Message of the President of the United States which respects foreign relations, was read the second time.

The bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers in the United States was read the second time; and on motion, by Mr. SMITH, of Maryland, it was agreed that the further consideration thereof be the order of the day for to-morrow.

The bill, entitled "An act to authorize the transportation of certain documents free of postage," was read the second time as in Committee of the Whole, and amended; and the President having reported the bill to the House accordingly, on the question, Shall this bill be read the third time as amended? it was determined in the affirmative.

Mr. LEIB presented the petition of Joseph Joshua Dyster, a native of England, stating that he had discovered a new principle for the erection of iron bridges, and exhibiting a prospectus thereof, but arriving in America on the 5th day of May last, he had not resided in the country the term prescribed by law to entitle him to become a citizen of the United States, although it was his intention. He therefore prays an act of the Legislature may be passed to enable him immediately to obtain, at the office of the Secretary of State, any patent or patents to which he might be entitled

SENATE.

Conduct of the British Minister.

DECEMBER, 1809.

were he an American citizen; and the petition and paper therein referred to were read, and referred to a select committee, to consider and report thereon by bill or otherwise.

Ordered, That Messrs. LEIB, BRADLEY, and BRENT, be the committee.

The resolution submitted on the fourth instant, for an amendment to the Constitution of the United States, was read, and passed to the second reading.

THURSDAY, December 7.

Mr. BRADLEY presented the petition of Charles Minifie, stating that, in April, 1803, he contracted for and supplied the Navy Department with a quantity of spars, for which, by casualty, he has not been fully compensated, and praying relief, for reasons stated at large in his petition; which was read, together with the accompanying documents.—Referred to a select committee, to consider and report thereon; and Messrs. BRADLEY, GOODRICH, and LEIB, were appointed the committee.

Mr. GILMAN, from the committee, reported the amendment to the bill, entitled "An act to authorize the transportation of certain documents free of postage," correctly engrossed; and the bill was read the third time as amended.

Resolved, That this bill pass with an amendment.

Mr. LEIB gave notice that he should to-morrow ask leave to bring in a bill to repeal the act, entitled "An act to suspend for a limited time the recruiting service."

The Senate resumed the consideration of the resolution reported on the 5th instant, from the committee appointed on that part of the Message of the President of the United States which respects the relations existing between the United States and Great Britain and France, as in Committee of the Whole; and on motion, by Mr. POPE, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States; and on motion, by Mr. POPE, the further consideration thereof was postponed until to-morrow.

The resolution submitted on the 4th instant for an amendment to the Constitution of the United States was read the second time; and on motion, by Mr. POPE, it was referred to a select committee, to consist of five members; and Messrs. POPE, GOODRICH, CRAWFORD, LLOYD, and BRENT, were appointed the committee, to consider and report thereon.

Mr. POPE gave notice that to-morrow he should ask leave to bring in a bill in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplemental to an act,

entitled 'An act extending the right of suffrage in the Indiana Territory, and for other purposes,' in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

Mr. BRADLEY gave notice that to-morrow he should ask leave to bring in a bill to incorporate religious societies in the District of Columbia.

FRIDAY, December 8.

The PRESIDENT laid before the Senate the report of the Secretary of the Treasury, prepared in obedience to the act, entitled "An act to establish the Treasury Department," which, together with the accompanying documents, were read, and ordered to lie for consideration.

The bill, entitled "An act supplemental to an act, entitled 'An act extending the right of suffrage in the Indiana Territory, and for other purposes,'" was read the second time, and referred to a select committee to consider and report thereon; and Messrs. POPE, MEIGS, and CRAWFORD, were appointed the committee.

Mr. LEIB asked and obtained leave to bring in a bill to repeal the act, entitled "An act to suspend for a limited time the recruiting service;" and the bill was read, and passed to the second reading.

THE BRITISH MINISTER.

The resolution reported by Mr. GILES, approving the conduct of the Executive in refusing to hold any further communication with Mr. Jackson, was taken up in the Senate as in Committee of the Whole. The resolution having been read,

Mr. GILES rose, and spoke as follows:

Mr. President: Before I proceed to perform the duties enjoined upon me as chairman of the committee who reported the resolution before you, permit me to express my regret that the consideration of a subject which justly excites so much sensibility should have been delayed, even only one day, on my account; and be assured, sir, that nothing less than an indisposition, sufficient to justify it, would have caused me to have been absent from my place yesterday. Perhaps, sir, I owe an apology to the Senate at this time for entering into this debate under a state of hoarseness, which must necessarily disqualify me, in some degree, from discharging my duty on the present occasion. But, sir, it is a subject of great consolation to me, to reflect that I am fortunately favored with associates on the committee, either of whom could perform the task I am now engaged in better than myself, and some of whom will certainly do me the favor of correcting any errors I may unintentionally commit, or supplying any omissions I may inadvertently make.

Although it appears to me that the propriety and urgency of the resolution now under consideration must be strongly addressed, both to the judgment and sensibility of every gentleman who has carefully attended to the distribution of powers under our Constitution, and who has also care-

DECEMBER, 1809.

Conduct of the British Minister.

SENATE.

fully attended to the correspondence which gave rise to the resolution, yet, in a case of so much delicacy, it would naturally be expected, and is a respect due to the Senate, from the chairman of the committee, to present to it at least some of the general motives which induced the committee to report the resolution at this time.

It is to be observed, Mr. President, that our Constitution is peculiar in the organization and distribution of its powers; and in no respect is it more peculiar than in the distribution of the particular powers embraced by the resolution. In all other Governments, known to us, the same department which possesses the power to receive and negotiate with foreign Ambassadors and other public Ministers, also possesses the power to make war. It has been thought wise in our Constitution to separate these powers. With a simplicity of language, and a solidity of wisdom almost peculiar to our Constitution, the President is invested with the power to receive Ambassadors and other public Ministers; thus using the broadest terms in granting this power, without even an attempt at limitation or specification; evidently with a view that all the incidental or consequential powers might flow from this general expression to the department thus invested with this general power. It was easy to foresee (and no doubt the framers of our Constitution did foresee) that the multiplicity and diversity of cases which would arise in the course of various diplomatic manœuvres and negotiations, would set at defiance all attempts to limit or specify the powers of the department, in this respect, to which these powers were confided, and to be exercised on the part of the United States; and, therefore, every attempt of that kind was wisely avoided, leaving to the President to exercise his authority upon his own responsibility, to be regulated by the only established standard amongst nations, to wit: the laws and usages of nations. For, it never can be presumed, sir, that the wise sages who framed our excellent Constitution could for a moment have tolerated the idea that the Ministers of foreign nations residing near the Government of the United States, should possess greater privileges and immunities than the Ministers of our Government residing near foreign Courts. Of course, the same laws—to wit: the laws and usages of nations—were left reciprocally to govern in every reciprocal case.

But, sir, notwithstanding the President is invested with the power "to receive Ambassadors and other public Ministers," and, as I think, all other incidental or consequential powers applicable to the various agencies with such Ambassadors and other public Ministers, yet Congress is invested with the power, without limitation or qualification, "to declare war." Now, sir, it must be obvious to every understanding, that these several powers are so intimately connected, and may be so dependent upon each other, that the exercise of the power conceded to the President may consequentially involve the necessity of the exercise of the power conceded to Congress, as in the case now under consideration. The refusal of the Executive to receive any further communi-

cations from His Britannic Majesty's Minister, (Mr. Jackson,) may consequentially involve us in war with Great Britain; or, in other words, may serve as a pretext to Great Britain to make war upon us, if she should conceive it her interest to do so, which I think not very improbable. Hence arises, in my judgment, the propriety and urgency of expression of the Congressional opinion upon this Executive act, and a declaration of the Congressional will as to the course of conduct Congress will pursue under any consequences which may flow from, or possibly be attributed to, this Executive act.

I conceive, sir, that the expression of this opinion, and the pledge of a solemn declaration, by Congress, are due to the people, because the people have the greatest interest in the character of their Government; and in no part of its attributes have a deeper interest than in its efficacy to resist and repel injuries and insults from foreign Governments. The people, also, are the mediate or immediate electors of Congress, and as such have a right to expect and demand that Congress will execute all their duties, and will never shrink from their Constitutional responsibility in any case; and, last of all, in a case of so high and solemn a character as the one under consideration.

This course of conduct is essentially due to the Executive. The President ought to know whether, with the indispensable co-operation of Congress, he ought to proceed with dignified moderation and intelligence to assert and maintain the rights, the honor, and the interests, of the American people; or whether, for the want of that co-operation, he shall with shame and confusion of face be compelled to retrace his steps, and leave to Congress to abandon these high attributes of the nation, and, with their degradation, to record their country's ruin and disgrace. No, sir, it is not possible that an American Congress does exist, or can ever exist, that would not spurn from themselves every vestige of an idea that they could be brought, under any circumstances, to perform so degrading and dishonorable a task. It is imperiously demanded by the dignity and candor of Congress itself. What, sir, shall the exercise of one of the highest Constitutional functions of Congress be brought into question, and every individual in the nation engaged in expressing an opinion on it; and shall Congress alone stand aloof, for fear of incurring a responsibility imposed on them by the Constitution! Shall Congress stand by as idle spectators, and see a contest before the people, between the President and a foreign Minister, and feel no interest and take no share in such an unprecedented scene, especially when one of their highest Constitutional functions may be affected by it! No, sir. Congress must speak—Congress must act. Congress never can shrink from its Constitutional responsibility. It is due to the dignity—it is demanded from the candor—of Congress.

Above all, sir, it is important to the United States as a nation, that the Congressional will should be proclaimed upon this delicate and solemn occasion. It is of importance, it may be of

SENATE.

Conduct of the British Minister.

DECEMBER, 1809.

the last importance, to the United States, that Great Britain should know, before she decides upon this subject, what is the Congressional will in relation to it. Whether she will be called upon to act against an united, harmonized Government and people—or whether she shall have for her prey, a divided people and a discordant Government.

Do you believe, Mr. President, that the conduct of Great Britain would be very different under these different conditions of the people and Government of the United States? Let me ask you this question, sir; would you not, sir, if you were Prime Minister of Great Britain, consulting her interests alone, pursue a very different course of conduct under this different state of things? Let every gentleman put the question to himself; and the answer of every one would be the same. Why then, sir, do we not unanimously take the ground here, which, if we were called upon to act in an opposite hostile character, would most certainly deter us from persevering in that hostile character against the United States? Sir, if there had been any doubt upon this subject, our late experience ought to have removed it; for, sir, I have no hesitation in saying, and with pain at heart I shall be compelled to show it in the course of this debate, that, in my judgment, our present embarrassments are too much to be ascribed to our former manifestations of indecision, to our unfortunate dissensions and divisions. Sir, whenever I approach this sorrowful and awful subject, my heart feels as if it were bleeding at every pore, when I am compelled to reflect, and to believe, that this our beloved and happy country may shortly become a bleeding victim, from wounds—if not inflicted by the hands of her own sons, at least by their unhappy divisions and dissensions. Yes, sir, with a full knowledge of what is past, and strong presages of what is to come, is it not deplorable to be compelled to think, that, in a very few months, perhaps in a still shorter time, American blood must be shed, to repel the hostile spirit of Great Britain, now rendered too manifest to every understanding; and worse than all, sir, to wash away the stains of our own unfortunate divisions and dissensions; and is it not wonderful, as it is deplorable, that the virtuous and patriotic American people, and sometimes called the most enlightened in the world, with the experience of the horrible consequences, through all ages, of the divisions of a people amongst themselves, should permit themselves from the same cause, to fall a prey to the same inevitable calamities?

Look, Mr. President, through all history, from the first dispute between Cain and Abel, down to the late disastrous dissensions between the Spanish branch of the Bourbon dynasty, and find if you can, sir, a single instance of a people who gained any advantage from dissensions among themselves, and especially, sir, when they carried them so far, as to join a foreign against their country's standard! I believe, sir, not one solitary instance of this kind stands recorded. Nor is it possible or practicable in any state of human af-

fairs—because in all cases, the foreign interference in the internal concerns of its neighbors is always for its own and never for its neighbor's benefit. With these monitory lessons before our eyes, and a full conviction of their truth upon our hearts, is it not wonderful, that we should voluntarily give up ourselves victims to the same calamities? But, sir, gentlemen may ask, where is the remedy? How can we make a sacrifice of our own opinions? Sir, the case is a plain one. Let gentlemen exercise their opinions and persevere in their arguments at all times respecting our internal concerns, as well before as after the measures are adopted; let them, respecting our foreign relations, urge their arguments with a zeal proportioned to the magnitude of the subject; they will be pleasurably received, and respectfully considered; but after the Government has taken its attitude against a foreign nation, it would be going too far, to desert its standard, and to join that of the enemy. It is then time for opinion to pause and reflect, whether any consequence can be worse, or more disgraceful, than joining a foreign against its country's standard? Whether it would not be better, more patriotic, more virtuous, to support your country even in a supposed unwise course of policy, than to join a foreign standard, and use it to correct and change the course of policy thus disapproved?

Sir, in a contest between your own and a foreign nation, it never can be wrong to join the standard of your own country; nor right to join the standard of your enemy. Then, sir, here is a rallying point. It is a plain and obvious one. No understanding can mistake it. No heart can disapprove it. It is our own Government. Let that be the rallying point. There never can be a more propitious moment than the present for casting into oblivion all former irritations and dissensions. There can never be a plainer case presented to the human understanding. There never were more urgent considerations in favor of the course recommended. Whether we respect their repulsive effects upon British hostility, or their harmonizing effects among ourselves, they appear to me to be equally strong and persuasive. May I not then, sir, indulge the pleasing hope, that the resolution before you will be received as the signal of unanimity in Congress, and joyfully hailed in that character through the whole of this great and extended country? Sir, does it not manifest a strange perverseness in the human character, for us to observe that, when it is perfectly at our option, we should choose to distress and injure ourselves by irritations and resentments, rather than delight ourselves with union and harmony and mutual good offices? Especially, sir, when the latter choice would command the respect, if not excite the alarm of our enemy. For, sir, do you believe that if Great Britain saw the strong arm of this nation stretched out to oppose her unjust spirit of hostility, guided in all its operations by one undivided will, she would so readily encounter its powerful influence, as if she saw it paralyzed in all its efforts from the want of an unity of will and action? No, sir, we under-

DECEMBER, 1809.

Conduct of the British Minister.

SENATE.

value our energies and importance, if we were to suppose that her conduct would be the same in both of these situations; or that she is at all indifferent to the course of conduct now to be pursued by us. Let us then all unite, sir, in this proposition, and disappoint her mistaken calculations upon her influence in this country. I verily believe, that union is all that is wanting to appease her hostile spirit towards us. But perhaps, sir, every gentleman present will admit, and it appears to me that no human being can deny, that if the facts stated in the resolution be supported by the correspondence upon which it is founded, that then every gentleman would readily assent to the resolution. But, sir, it is possible, although it appears to be scarcely possible, that some gentlemen may doubt whether the facts stated in the resolution be supported by the correspondence or not. This I admit is a fair though delicate inquiry, and I will therefore immediately proceed to the examination of that question—and I beg the most critical attention of the Senate in the course of the investigation.

I will now proceed, Mr. President, to inquire whether the facts stated in the resolution are supported by the correspondence upon which it is founded? In performing this task, I propose to read the whole of the correspondence which I conceive bears any material relation to the subject of the resolution, and no other; although the whole may not be entitled to, nor receive any animadversions from me, yet, as my sole object is to get at the true exposition and meaning of the correspondence, if I should unfortunately omit, misconceive, or misinterpret any material part of it, I shall have the consolation to reflect, that, by presenting the whole, the means of my correction in either case will be presented to the Senate and the world, if the observations I propose now to make should ever find their way out of the walls of this Chamber. I shall also present this correspondence in its responsive order, which will be found to be indispensable to the due comprehension of some of its most essential parts.

Permit me, then, sir, to call your attention first to the letter of Mr. Jackson to Mr. Smith, dated the 11th October, 1809, page 32, 33, of the printed documents. For, sir, although this letter is not mentioned in the resolution, yet it furnishes the original offensive insinuations, and is referred to and reiterated in the letter of the 23d of October, which is noticed in the resolution, and therefore the offensive expressions of the letter of the 11th are entitled to, and shall receive, the most accurate and critical attention and analysis.

The expressions alluded to are the following:

"You have not, in the conferences we have hitherto held, distinctly announced any such complaint, and I have seen with pleasure, in this forbearance, on your part, an instance of that candor which, I doubt not, will prevail in all our communications, inasmuch as you could not but have thought it unreasonable to complain of the disavowal of an act, done under such circumstances as could only lead to the consequences that have actually followed."

"It was not known when I left England, whether Mr. Erskine had, according to the liberty allowed him, communicated to you, *in extenso*, his original instructions. It now appears that he did not. But in reverting to his official correspondence, and particularly to a despatch addressed on the 20th of April to His Majesty's Secretary of State for Foreign Affairs, I find that he there states, that he had submitted to your consideration the three conditions specified in those instructions as the ground-work of an arrangement, which, according to information received from this country, it was thought in England might be made, with a prospect of great mutual advantage. Mr. Erskine then reports, *verbatim et seriatim*, your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you, that these latter were an equivalent for the original conditions; but the very act of substitution evidently shows that those original conditions were in fact very explicitly communicated to you, and by you, of course, laid before the President for his consideration. I need hardly add, that the difference between these conditions and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation; nor need I draw the conclusion, which I consider as admitted by all absence of complaint on the part of the American Government, viz: that, under such circumstances, His Majesty had an undoubted and incontrovertible right to disavow the act of his Minister. I must here allude to a supposition, which you more than once mentioned to me, and by which, if it had any, the slightest foundation, this right might perhaps have been in some degree affected. You have informed me that you understood that Mr. Erskine had two sets of instructions by which to regulate his conduct; and that upon one of them, which had not been communicated either to you or to the public, was to be rested the justification of the terms finally agreed upon between you and him. It is my duty, sir, solemnly to declare to you, and through you, to the President, that the despatch from Mr. Canning to Mr. Erskine, which you have made the basis of an official correspondence with the latter Minister, and which was read by the former to the American Minister in London, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with this country on the matter to which it relates."

Permit me, sir, to call your attention to the first paragraph of this quotation, in the following words. Addressing himself to Mr. Smith, Mr. Jackson says:

"You have not, in the conferences we have hitherto held, distinctly announced any such complaint, and I have seen with pleasure, in this forbearance, on your part, an instance of that candor, which, I doubt not, will prevail in all our communications, inasmuch as you could not but have thought it unreasonable to complain of the disavowal of an act done under such circumstances as *could only* lead to the consequences that have actually followed."

First, let me ask, Mr. President, what were the consequences that actually followed this act? The obvious answer is, the disavowal of it. Who is it that must have thought it unreasonable to complain of this disavowal? The answer is, Mr. Smith, Secretary of State. What are here

suggested as the materials for his thinking, or upon which his thoughts must have been exercised? The answer is, the circumstances under which the act was done.

Mr. Smith, then, must have had a knowledge of these circumstances, upon which he exercised his thoughts; because it is impossible to exercise thoughts, or perform the act of thinking upon circumstances, without the knowledge of those circumstances. What must have been the character of such circumstances as could only lead to the disavowal of the act done under them? Could it have been fair? Could it have been honorable? Certainly not; because an act done under circumstances, the character of which was fair and honorable, might merit a better destiny than an unqualified disavowal; but this act was done under such circumstances, within the knowledge of Mr. Smith, as could only lead to a disavowal of it. The character of such circumstances must then have been dishonorable and scandalous, or certainly some better fate than a disavowal of the act done under them might have attended it; but in this case, Mr. Jackson says, no better fate could attend the act; the circumstances were such as could only lead to a disavowal. Now, sir, after thus stripping this extraordinary sentence of all its disguises, and translating it into plain English, to what does it amount? Why, sir, certainly and unquestionably to this:—You, Mr. Smith, Secretary of State of the United States, have entered into an arrangement with my predecessor, Mr. Erskine, under such scandalous and dishonorable circumstances as could only lead to a disavowal of it; and you yourself were so well apprized of them, and so conscious of their inevitable operation, as even to think it unreasonable to complain of the disavowal. I defy gentlemen to give to this offensive paragraph any other fair and correct interpretation; and if this be the fair and correct one, can you conceive, sir, of an insult more outrageous and premeditated? And will you not be surprised, sir, to be told, that the insult does not stop here; that, as offensive as it already appears, it does not stop here; that it is still further aggravated? Yes, sir, Mr. Jackson, not content with making this extraordinary and insolent communication in its ordinary form, underscores the words “could only,” containing the point or gist of the insult, thus aggravating the act, either by the distrust thus manifested of Mr. Smith’s mental perceptions, or by letting Mr. Smith know, that the insult was known to, and intentionally given by Mr. Jackson; for the underscoring could not have had any other object in view. In this impudent act of underscoring, Mr. Jackson reminds me, sir, of a set of miserable, conceited pretenders to wit, who, having great confidence in the acuteness of their own mental perceptions, and very little in that of their hearers, will kindly and compassionately explain the point of wit to their hearers, before they approach it in the recital of the story, to prepare and qualify the hearers’ minds to join in the laugh intended to be produced by it. Yes, sir, this underscoring was as much as saying to Mr. Smith,

I am afraid that I have so nicely wrapped this insult in the veil of mysteries and disguises, that it may escape observation from the obtuseness of your mental perception, but am determined it shall not. I have underscored it for you; you shall look at it; you shall know that I, Mr. Jackson, understand and mean it. I have wrapped it up in mystery and disguise to be sure, but I will rend the veil, I will make an eyelet hole for you, that you shall look through, and behold the insult in all its front of grossness and impudence.

But, sir, if Mr. Jackson had then known, as well as he now does, the dignified character, the high sensibility, and the correct intelligence of the Secretary of State, he would have found it more honorable to himself to have spared his insult altogether, or at least might have spared himself the trouble of underscoring. Sir, I conceive this insult so gross and outrageous that I am surprised how the Executive Government could reconcile it to itself to proceed another step in the communications with Mr. Jackson. Certainly, sir, proceeding beyond this point manifests on the part of the Executive great moderation, great forbearance, and a condescension scarcely excusable; and, sir, I am perfectly sure, that nothing could have induced it to consider such gross intimations argumentatively, but the ardent and sincere desire which has invariably actuated the present, as well as the last, Administration to preserve peace and cultivate harmony, and a good understanding with Great Britain. And, sir, we shall see, in the course of this investigation, how it has been required for this, as well as for all former acts of moderation, forbearance, and condescension.

Let me now, sir, select out of the quotation another extraordinary expression, for a few animadversions, in the following words: “But the ‘very act of substitution evidently shows that ‘those original conditions were in fact very explicitly communicated to you, and by you, of ‘course, laid before the President for his consideration.’”

It is somewhat curious to observe what stress Mr. Jackson placed through the whole of his correspondence, upon what he is here pleased to term “the very act of substitution,” and demonstrates to every impartial mind how slender are the pretexts with which Mr. Jackson is furnished, to apologize for, or rather to equivocate about the disavowal of Mr. Erskine’s arrangement. Let me, therefore, inquire, in what this horrible act of substitution, as Mr. Jackson would make it appear, consists? Why, sir, simply in this: That the three inadmissible conditions mentioned in one of the despatches to Mr. Erskine, were verbally communicated to Mr. Smith, and insisted upon by Mr. Erskine, and that Mr. Smith, in rejecting those conditions verbally, and with great propriety and frankness, told Mr. Erskine what conditions he might obtain. Mr. Erskine, upon a review of all his letters of instructions, finding it impossible to obtain his, the three conditions first proposed, conceived himself fully empowered to propose those which possibly might have

DECEMBER, 1809.

Conduct of the British Minister.

SENATE.

been intimated to him by Mr. Smith in conversation; and the arrangement was accordingly and promptly made between these two gentlemen on the part of their respective Governments. And now let me ask you, sir, what is there dishonorable, unfair, or even unusual in this proceeding, which is the whole amount of Mr. Jackson's "very act of substitution." Sir, it is very easy to see, that Mr. Jackson keeps his ingenuity constantly upon the stretch respecting this very act of substitution, evidently with a view of producing an impression by the insinuation, that the Executive Government of the United States had more than its share in that arrangement, and, in fact, was concerned in a dishonorable and scandalous combination with his predecessor, Mr. Erskine, for the purpose of producing the arrangement. Which insinuation, if true, must represent Mr. Erskine as a fool, a knave, or a traitor, or all three, and our Executive Government still further lost to every honorable sentiment, and utterly destitute of even the most ordinary understanding. An insinuation so insidious and affronting, cannot fail to excite the indignation and contempt of every patriotic heart in America. But, fortunately for the Executive Government, Mr. Erskine's previous explanation of this point to our Government strips the transaction of every shadow of a shade of a doubt, of which Mr. Jackson perhaps was not apprized at the time he was employed in devising the gross insinuation. Yes, sir, this was one miserable effort of Mr. Jackson to reproach our Executive Government for an act, for which it merited, and universally received the sincere applause and grateful thanks of the American people. It restored the Executive, as it ought to have done, to universal confidence, and utterly rooted out every doubt of its sincerity in its diplomatic intercourse with Great Britain, under which some of our misled and mistaken citizens, for a while, unfortunately labored. For the moment, terms were proposed on the part of Great Britain, which could, with honor or propriety, be accepted by the United States: they were frankly and promptly accepted by the Executive, regardless of all consequences from any other quarter. Sir, there is another part of this quotation which requires a few animadversions.

I allude, sir, to the first solemn declaration made to this Government by Mr. Jackson, respecting the despatch, in which the conditions were prescribed to Mr. Erskine. It is in the following words:

"It is my duty, sir, solemnly to declare to you, and through you, to the President, that the despatch from Mr. Canning to Mr. Erskine, which you have made the basis of an official correspondence with the latter Minister, and which was read by the former to the American Minister in London, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with this country on the matter to which it relates."

The equivocal of this sentence consists in using the word "despatch" instead of the word "conditions." What does Mr. Jackson here solemnly declare to Mr. Smith? Why, sir, that the "despatch"

from Mr. Canning to Mr. Erskine, &c., is the only "despatch" by which the conditions were prescribed to Mr. Erskine, &c., not that these were the only conditions that were prescribed. This, I have no doubt, is true. It is astonishing to me that such extraordinary conditions should have ever found their way into one despatch, or any despatch. I hope, for the honor of Mr. Canning, that he did not repeat them in any other despatch. But, sir, does Mr. Jackson here solemnly declare that Mr. Erskine had received no other despatch in relation to this subject, in which some other conditions were prescribed, or some discretion to Mr. Erskine, authorizing him to explain or modify those conditions, or, if he thought proper, to substitute others in their stead? No, sir, there is no solemn declaration to this effect. Is it not, then, very probable, that this was the case? As the despatch in question is not, I believe, the only despatch brought to Mr. Erskine by Mr. Oakley, and as Mr. Oakley was sent for the express purpose of bringing despatches to Mr. Erskine, and as one of these despatches did not contain the conditions prescribed in the preceding despatch, is it not natural to conclude that this despatch did prescribe some other conditions, or give some discretion respecting those previously prescribed, or make some new explanation or modification of them? As the last despatch did not contain the same conditions with the first, is it not natural to conclude that it did contain something else; and might not that something else be a full power to Mr. Erskine, which, either in its letter or spirit, would justify the arrangement finally concluded under it? This is so natural in itself, and is rendered so probable by Mr. Erskine's letter to Mr. Smith, dated the 14th August, 1809, that I think it fair to infer that such was the real course of facts. For you will observe, sir, that Mr. Jackson, in this first solemn declaration nowhere says that Mr. Erskine had no discretion given him in relation to this subject in any other despatch; but simply that the despatch in question is the only one in which the conditions are prescribed, &c. He may, notwithstanding this declaration, have had full powers, or discretionary powers, as he probably had, given him in some other despatch. In support of this conclusion, sir, let me beg your attention to Mr. Erskine's letter, containing the expressions to which I allude, and which will be found in pages 21 and 22 of the printed documents, in the following words:

"Under these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning's despatch of the 23d January, (which formed but one part of his instructions to me) in the formal manner required, I considered that it would be in vain to lay before the Government of the United States the despatch in question, which I was at liberty to have done *in extenso* had I thought proper. But, as I had such strong grounds for believing that the object of His Majesty's Government could be attained, though in a different manner, and the spirit, at least, of my several letters of instructions be fully complied with, I felt a thorough conviction upon my mind, that I should be acting in conformity with His Majesty's wishes, and, accordingly, concluded the late provisional agree-

ment on His Majesty's behalf with the Government of the United States.

"The disavowal by His Majesty is a painful proof to me that I had formed an erroneous judgment of His Majesty's views and the intentions of my instructions; and I have most severely to lament that an act of mine (though unintentionally) should produce any embarrassment in the relations between the two countries."

It is to be observed from this quotation, in the first place, sir, that Mr. Erskine explicitly disavows ever having shown the Executive Government the despatch containing the inadmissible conditions; and thus entirely exculpates it from the odious imputation attempted to be thrown on it by Mr. Jackson, and for this respectful forbearance to our Government, he is certainly entitled to the applause of his own. In the next place, Mr. Erskine explicitly states that the despatch in question contained but one part of his instructions, and that he thought that, from the spirit at least of his several letters of instructions, he was fully authorized to make the arrangement he had done. And I think there is very little doubt but he had—that Mr. Erskine still thinks so, there can be no doubt—for he nowhere says he is now convinced that his powers were incompetent—he only says, that the disavowal by His Majesty is a painful proof to him, that he had formed an erroneous judgment of His Majesty's views and the intentions of his instructions. Whether, or not, he had formed an erroneous view of His Majesty's views, or the intention of his instructions, I imagine, will depend very much upon the point of time to which the judgment he had formed is referable. If it be referred to the time of Mr. Oakley's mission, I am inclined to think he had neither formed an erroneous judgment of His Majesty's views, nor the intentions of his instructions; but, if he refers to the time of the disavowal, then I think it pretty certain, he had formed an erroneous judgment of both—for I have no doubt but His Majesty's views at least had completely changed between these two periods of time, and the real cause of this change, and of the disavowal itself, is to be looked for in the occurrences which took place, both in Europe and in the United States, during that interval. No, sir, the want of powers on the part of Mr. Erskine is not the true cause of the disavowal. I will now venture to conjecture the true cause, and, if it be the right one, the case will be a plain one, and all equivocations in the explanations rendered unnecessary. To do this, sir, I must call your attention to the state of events in Europe and in the United States, at these different periods of time. Mr. Oakley's mission was immediately after the British Government was apprized of the precipitate retreat of Sir John Moore's army from Spain, and the fortunate escape of the remains of it from Corunna. The affairs of Spain, which had before excited such high expectations in the British Cabinet, were given up as hopeless, &c. Contemporaneously with a knowledge of these events, the British Government was also informed of the measures of resistance against her out-

rageous aggressions, contemplated by Congress; which she then believed would certainly be carried into effect, &c. Such was the state of things at the time of sending the despatches by Mr. Oakley. At the time of the disavowal, a new coalition had been formed, Austria had boldly entered into the war against France, and the Spaniards had been animated into further efforts at resistance, which excited new hopes of success, &c.

In this country, too, sir—it pains my heart to be compelled to recite the circumstances—our contemplated measures of resistance had been relaxed, and the whole country exhibited such scenes of divisions and disaffections as paralyzed in some degree the movements of the Government. I wish, sir, I could throw a shade of oblivion over these unfortunate scenes, or recollect them only as they furnish the strongest argument. Indeed, sir, they point with an infallible index to the course it now becomes us to pursue. Yes, sir, it is to these changes in the state of things, you are to look for the real causes of the disavowal, and not to the want of competent instructions on the part of Mr. Erskine; and it would have been more dignified on the part of the British Government to have told us so at once. She would then have said to us, the state of things is changed; at the time of giving the instructions, I was depressed from a combination of untoward events; I am now flushed with new hopes of elevation and of triumph. Besides, you have convinced me that you are untrue to yourselves—that you will shrink from the assertion and support of your own rights—if you will not, I am not bound to respect them, &c. I was then down, I am now up, and therefore I cannot grant you, in a spirit of triumph, what I solemnly promised in a spirit of despondency—I now find this the most favorable moment for establishing my favorite doctrine of the despotism of the ocean; and I cannot, and will not deprive myself of the advantage merely to avoid the imputation of bad faith. Yes, sir, this would have been a much more correct and dignified course on the part of Great Britain than the miserable effort made by Mr. Canning in devising an ingenious mental retort, for converting the bad faith of his own Government, in the disavowal of the arrangement, into a reproach upon ours, for the circumstances under which that arrangement was pretended to have been made. It is true, sir, that in the one case there would have been an admission of *mala fides*, which is basely attempted to be avoided by a miserable subterfuge in the other; but, then the British Cabinet would have had the consolation of having told the truth, taken the responsibility upon themselves and set us at defiance; and we should have been left to our own remedy, with a perfect understanding of the case. She would, also, have had the plea of necessity, the old-fashioned plea of tyrants, and, indeed, of everybody else, who has no better; but this is not Mr. Canning's mode of doing business; he chooses to act by tricks and contrivances; and, in the case of the disavowal, by a mental retort, flowing

DECEMBER, 1809.

Conduct of the British Minister.

SENATE.

solely from his own visionary mental conceits, without a fact or pretext for its support.

Mr. President, I am told that Mr. Canning is a professed punster. But, sir, I would not condescend to make the observation here, had he not, after heaping upon us, during the whole of his administration, every injury and insult in his power, at the close of it placed us in a ludicrous situation by imposing on us an obligation, in a grave and serious concern to the nation, of expounding his equivoques, and unriddling his riddles. I really feel some condescension in being compelled, in my place, to hunt out for his and Mr. Jackson's meaning, through a transition of sentences, a collocation of words, and a shifting of verbiage. And indulge me, sir, with remarking, that I conceive the situation of a nation never can be more disastrous, calamitous, and lamentable, than when its great and serious affairs are placed in the hands of a parcel of punsters. For, sir, men of minds of that description are too much employed in the pleasing amusement of looking out for corruscations of wit and sentiment, to have any leisure for the more dull and unpleasurable business of observing and marking the great occurrences in human affairs, and of devising means of giving them a direction favorable to their own views, or to their country's interests. No, sir, this is too dull and plodding a pursuit for men of such light, flitting, brilliant imaginations, and if ever they unfortunately undertake it, they soon find the woful misapplication of talents. If, sir, any illustration were wanting of the correctness of these observations, it could nowhere be found better than in an attentive review of the historical events which occurred during the late British administration—the administration of the energetic, the brilliant, the sarcastic, the facetious, the joking Mr. Canning. He has carried his joking propensities far indeed. It may be truly said, he jests at scars indeed—at scars of the blackest disgrace and ruin inflicted upon his bleeding country—upon a great nation, which probably would have received, and certainly merited, a better fate, if it had fortunately placed its destinies in better hands. Sir, it appears to me, that all the military enterprises during his whole administration, from the abominable attack on Copenhagen, down to the last expedition against the islands of Zealand, were nothing more than belligerent puns and conundrums. It has been constantly announced that some grand, secret expedition was on hand, and each succeeding one grander than the preceding, until the last expedition to Walcheren, which was the grandest of all; and, when the secret really came out, it appeared either that the object was abominable or contemptible, and the means of executing even the contemptible object, upon experiment, were generally found incompetent. Yes, sir, probably these enterprises have cost the British nation the lives of fifty thousand brave officers and soldiers, and I will not undertake to count the millions of dollars. Sir, the same little-minded course of policy has also been uniformly manifested during the same time against the United States; and in no respect

more than in the disavowal of Mr. Erskine's arrangement—in avoiding to avow the real motives for it—and in the uncandid attempt to convert the bad faith of the British Government into a reproach upon our own; and this was to be done by an ingenious mental device, prettily conceived by Mr. Canning, and adroitly executed by Mr. Jackson, who, if not equal to Mr. Canning in the mysterious art of punning, I think can be very little way behind his prototype in the art of equivoques. Sir, the disavowal, in my judgment, was not for the want of competent powers. Too great a share of the real cause of the disavowal, unfortunately, is attributable to ourselves, and now is the moment to relieve ourselves from the imputation.

Let me now, sir, call your attention to the letter of Mr. Smith to Mr. Jackson, in reply to these highly offensive insinuations, dated 19th of October, 1809, pages 46 and 47, of the printed documents:

"The stress you have laid on what you have been pleased to state as the substitution of the terms finally agreed on, for the terms first proposed, has excited no small degree of surprise. Certain it is, that your predecessor did present for my consideration the three conditions, which now appear in the printed document—that he was disposed to urge them more than the nature of two of them (both palpably inadmissible, and one more than merely inadmissible) could permit, and that on finding his first proposals unsuccessful, the more reasonable terms comprised in the arrangement respecting the Orders in Council were adopted. And what, sir, is there in this to countenance the conclusion you have drawn in favor of the right of His Britannic Majesty to disavow the proceeding? Is anything more common in public negotiations than to begin with a higher demand, and, that failing, to descend to a lower? To have, if not two sets of instructions, two, or more than two, grades of propositions in the same set of instructions; to begin with what is the most desirable, and to end with what is found to be admissible, in case the more desirable should not be attainable. This must be obvious to every understanding, and it is confirmed by universal experience.

"What were the real and entire instructions given to your predecessor is a question essentially between him and his Government. That he had, or, at least, that he believed he had sufficient authority to conclude the arrangement, his formal assurances during our discussions were such as to leave no room for doubt. His subsequent letter of the 15th of June, renewing his assurances to me 'that the terms of the agreement, so happily concluded by the recent negotiation, will be strictly fulfilled on the part of His Majesty,' is an evident indication of what his persuasion then was as to his instructions. And with a view to show what his impressions have been even since his disavowal, I must take the liberty of referring you to the annexed extracts (see C) from his official letters of the 31st of July and of the 14th of August.

"The declaration 'that the despatch from Mr. Canning to Mr. Erskine of the 23d of January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates,' is now for the first time made to this Government; and I need hardly add that if that despatch had been communicated at the time of

the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made."

The language of this quotation is at once so perspicuous, candid, and intelligent, that it requires no explanation or illustration from me. I will, therefore, pass on to Mr. Jackson's reply, dated 23d October, 1809, pages 59, 60, in the following words:

"I have, therefore, no hesitation in informing you, that His Majesty was pleased to disown the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the eleventh instant, were at the time in substance made known to you; no stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement.

"Nothing can be more notorious than the frequency with which, in the course of a complicated negotiation, Ministers are furnished with a gradation of condition, on which they may be successively authorized to conclude. So common is the case which you put hypothetically, that, in acceding to the justice of your statement, I feel myself impelled to make only one observation upon it, which is, that it does not strike me as bearing upon the consideration of the unauthorized agreement concluded here, inasmuch as, in point of fact, Mr. Erskine had no such graduated instruction. You are already acquainted with that which was given, and I have had the honor of informing you that it was the only one by which the conditions on which he was to conclude were prescribed. So far from the terms, which he was actually induced to accept, having been contemplated in that instruction, he himself states that they were substituted by you in lieu of those originally proposed."

The first observation which occurs, in reading this extract, is, that Mr. Jackson here attempts to get at his object by what, I suppose, he considers an ingenious conceit, shifting his verbiage—the words, "conditions prescribed in the despatch" are here dropped; and the word "instructions" substituted. Thus endeavoring to show, that Mr. Erskine's instructions themselves, were in fact known to Mr. Smith, at the time of the arrangement. And how, sir, do you suppose he attempts to get at this fact? Why, sir, he tells you, from Mr. Smith's letter, just read; which is so far from justifying that conclusion, that it positively denies it; and even goes further, it furnishes, and refers to extracts of two letters from Mr. Erskine to Mr. Smith, the one dated the 31st July, the other the 14th August, 1809—it refers also to one of the 15th, all of which go explicitly to show that the instructions in question were not known to Mr. Smith, and that Mr. Erskine at every period of time thought his instructions competent to the arrangement. Sir, these papers ought to have relieved Mr. Jackson's mind from every vestige of a doubt, respecting this fact, if it were possible that he could even before have thought so

unworthily, as well of Mr. Erskine, as of our Government; but very far from yielding to the influence of all this evidence, in the very face of it, with the most extraordinary effrontery, he contradicts the whole, and renews his offensive insinuation with all the aggravation of this impudent contradiction. But, sir, this is not all, he here reiterates this insinuation by referring to what he calls the "obvious deduction" he took the liberty of making in his letter of the 11th of October, which I have before animadverted on to the Senate; this reiteration demonstrates the propriety of my animadversions on that letter; the whole of which are equally applicable to the letter of the 23d of October, now under consideration, and noticed in the resolution before you; with this additional aggravating circumstance, that at the time of writing this last letter, Mr. Jackson knew that he wrote the first under false or mistaken impressions. Nor, sir, can it escape observation that he here again renewed his insinuations, deduced from his ridiculous and contemptible interpretation of what he calls the act of substitution.

Let me now, sir, proceed to Mr. Smith's letter to Mr. Jackson, of 1st of November, replying to these reiterated and aggravated insults. It will be found in pages 66, 67, of the printed documents, in the following words:

"But it would be improper to conclude the few observations, to which I purposely limit myself, without adverting to your repetition of a language implying a knowledge on the part of this Government that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this Government had no such knowledge, and that with such a knowledge no such arrangement would have been entered into, the view which you have again presented of the subject, makes it my duty to apprise you, that such insinuations are inadmissible in the intercourse of a foreign Minister with a Government that understands what it owes to itself."

This language is also too perspicuous and correct in itself, to require any explanation from me. But I cannot help remarking, sir, that surely every American patriot must feel a smile of confidence and complacency towards his own Government, when he beholds the openness, the frankness, the candor, and the intelligence with which it gets at the truth, compared with the miserable and contemptible conceits and subterfuges with which the British Minister attempts to disguise and obscure it.

After this admonition, made with dignified decision and moderation, let me turn your attention to Mr. Jackson's reply. It will be found in his letter to Mr. Smith of the 4th of November, page 72, of the printed documents, in the following words:

"You will find that in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and last of all should I think of uttering an insinuation, where I was unable to substantiate a fact. To facts, such as I have become acquainted with them, I

DECEMBER, 1809.

Conduct of the British Minister.

SENATE.

have scrupulously adhered, and in so doing I must continue, whenever the good faith of his Majesty's Government is called in question, to vindicate its honor and dignity, in the manner that appears to me best calculated for that purpose."

It cannot have escaped your observation, sir, that the Executive Government, with a moderation and forbearance almost peculiar to itself, would not impose upon Mr. Jackson the pain either of explanation or retraction. Notwithstanding his reiterated affronts, it made no demand of either. It appeared only to desire to throw out of the way these offensive insinuations. And how, sir, has it been required for this moderation and forbearance? Why, sir, instead of dropping a subject in which Mr. Jackson was so clearly in the wrong, he again renews it with still further aggravations. He tells Mr. Smith that he had carefully avoided, in all his preceding correspondence, drawing conclusions, that did not necessarily follow from premises advanced by him; or uttering an insinuation, where he was unable to substantiate a fact. That he had scrupulously adhered to such facts as he had become acquainted with, and that he should continue to do so, whenever the good faith of his Majesty's Government was called in question, to vindicate its honor and dignity, in the manner he thought best calculated for that purpose.

Now, sir, permit me to ask you, if the Executive Government had gone on to receive any further communications from Mr. Jackson after these declarations, in what situation would the American Secretary of State have been placed? when Mr. Jackson, in substance, here tells him, with a superciliousness bordering on mental infatuation, I have insulted you, I here repeat the insult, and now give you notice that I will continue to repeat it, whenever I may think proper, during the whole course of our future negotiations. For, sir, at the time of writing this letter, you will be pleased to remark, that there remained no doubt of the true meaning of the offensive insinuations; because Mr. Smith had put an interpretation upon them in his letter of the 1st of November, which was plain and explicit, and which could not be misunderstood. Mr. Smith then tells Mr. Jackson, that his, Mr. Jackson's language, implied a knowledge on the part of the American Government, that the instructions of his predecessor did not authorize the arrangement formed by him. That after the explicit and peremptory asseveration that this Government had no such knowledge, and that with such knowledge, no such arrangement would have been entered into, &c. such insinuations are inadmissible, &c. This interpretation of the meaning of Mr. Jackson's insinuations is not denied, and therefore admitted by Mr. Jackson; and with that admission he goes on superciliously to repeat them, and to declare that he will continue to do so in all future discussions, whenever he pleases.

Is there one single gentleman in the United States, with an American heart in his bosom, who could wish to see his Government and his country placed in so degrading a situation? And

what prospect of benefit could there be to the United States, in proceeding with a negotiation conducted with such a spirit of hostility and superciliousness on the part of the British negotiator? Is there a gentleman whose highest sensibilities are not excited by this insolent conduct of the British Minister? and whose judgment is not convinced of the propriety of the conduct of his own Government? And, sir, after all these outrageous and premeditated insults, what is the measure proposed by the Executive in relation to this contumacious Minister? Why, sir, the mildest in the whole vocabulary of expédients. Simply to refuse to receive any further communications from him, and to request his recall by his own Government; and in the mean time, to receive communications through any other channel. Thus merely shielding itself from further insults, and manifesting a solicitude for friendly intercourse with Great Britain, which must shield it from every imputation of insincerity in its professions of friendly views in relation to that Government. Yes, sir, negotiation is still open, although in my judgment without the smallest probability of success or advantage. Upon the whole review of this part of the subject then, sir, is there a gentleman, who is not prepared to say, that in refusing to receive any further communications from Mr. Jackson, the Executive Government has manifested a just regard to its own dignity and honor; as well as to the character and interests of the American people? and can there be a gentleman of this Senate who is not prepared to pledge himself to stand by and support the Executive Government in this respect to the last extremity? Permit me now, sir, to call your attention to a still more aggravated conduct on the part of Mr. Jackson. I allude to his letter headed "Circular," dated 13th of November, and published and circulated through the country. In all its essential parts it seems to be the same with the note of the same date delivered to Mr. Smith by Mr. Oakley at the request of Mr. Jackson, in the following words—and will be found in the printed documents pages 74, 75—

"That Mr. Jackson has seen with much regret, that facts, which it has been his duty to state in his official correspondence, have been deemed by the American Government to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with the Minister charged by his Sovereign with that negotiation, so interesting to both nations, and on one point of which an answer has not even been returned to an official and written overture.

"One of the facts alluded to has been admitted by the Secretary of State himself, in his letter of the 19th October, viz: that the three conditions forming the substance of Mr. Erskine's original instructions were submitted to him by that gentleman. The other, viz: that that instruction is the only one in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, is known to Mr. Jackson by the instructions which he has himself received.

"In stating these facts and in adhering to them, as his duty imperiously enjoined him to do, Mr. Jackson

could not imagine that offence would be taken at it by the American Government, as most certainly none could be intended on his part."

It is to be observed, sir, that the letter headed "Circular," and this note officially presented by Mr. Oakley, at the request of Jackson, are of the same date, and essentially in the same words; and what must have been the surprise of the Executive Government, to find that within a very few days after an official note had been presented to it, at the request of the British Minister, complaining of some of its acts, that the same note should be published and circulated through the country, as an appeal to the people against the conduct of their Executive Government in relation to these acts! Nor can it escape observation, sir, that this circular letter contained the first official annunciation of the nature of the negotiations between this Government and Mr. Jackson. This sir, was such a premeditated and inexcusable affront to the whole American people, as well as to their Government, that nothing could have restrained me at this time from submitting a resolution to the Senate, requiring the President to send Mr. Jackson immediately out of the country, but the consideration, that this contumacious and insolent conduct has been presented to the British Government, as one of the grounds upon which his immediate recall is requested, and I am unwilling to interfere with this milder course, which the Executive has thought proper to adopt. Yes, sir, I wish it now to be explicitly understood, that I think Mr. Jackson ought instantly to be sent out of the country. That it is due to the dignity and the honor of the people and the Government; and even that measure would afford a poor atonement for his insolent affronts to both.

I wish it also understood, sir, that I consider the insult to consist in the appeal itself, in the publication and circulation of the paper, without any reference to the question of the truth or falsehood of the facts stated as the grounds of the appeal; but, sir, as an aggravation in the case, the facts stated are manifestly false or fallacious, and in some respects, I believe both false and fallacious. As an incontestible evidence of this, sir, I beg your attention to the first paragraph of this impudent appeal, which has been already read, in the following words:

"That Mr. Jackson has seen with regret, that facts which it has been his duty to state in his official correspondence, have been deemed by the American Government to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with the Minister charged by his Sovereign with that negotiation so interesting to both nations, and on one point of which an answer has not even been returned to an official and written overture."

What, sir, is the evident design of Mr. Jackson in thus presenting this complaint to the people against their own Government? Why, sir, to impress them with a belief that he really was engaged in an important negotiation, highly interesting both to the United States and Great Brit-

ain, and that there was a fair prospect of bringing it to a happy conclusion; when the Executive of the United States causelessly and capriciously put an end to it, utterly regardless of the high interests of both nations. This surely, sir, if well founded, is a serious complaint, and let me ask every gentleman, and especially those, if there be any, who have habitually placed their faith in British orthodoxy, whether this was not the impression intended to have been made by Mr. Jackson? Sir, it is too obvious to be denied. Now, sir, let me look into the state and prospect of this negotiation, and see whether it was likely to eventuate in these intimated and anticipated advantages to either nation? Without animadverting upon the general spirit and temper of the whole of Mr. Jackson's communications, the nature and tendency of which cannot be mistaken by any gentleman, who has given them an impartial consideration, let me call your most particular attention to a principle of ultimatum, as I understand it, contained in pages 38, 39, of the printed documents. Speaking of the Orders in Council and the British principle of blockades, in page 38, Mr. Jackson uses these words:

"The effect of this new order is to relieve the system under which the former orders were issued, from that which has always been represented in this country as the most objectionable and offensive part of it, the option given to neutrals to trade with the enemies of Great Britain through British ports on payment of a transit duty. This was originally devised and intended as a mitigation of what is certainly more correct but more rigid in principle, the total and unqualified interdiction of all trade with the enemy."

And in speaking on the same subject, in the same page, and page 39, Mr. Jackson used these words:

"And that by the capture of Martinique, in addition to that of almost all the colonies of the enemies of Great Britain, together with the blockade of Guadeloupe, the extent to which the liberty of commerce with enemies' colonies applied, has been so far narrowed, that there is little of practical hardship in recurring to the rule which, however occasionally mitigated in its application, Great Britain can never cease in principle to maintain."

Now, sir, let me ask, if there is one single gentleman, in this Senate or in the United States, who would formally admit, by treaty, that Great Britain has a right to interdict the whole of our trade with her enemy? Or what prospect there could be of a happy termination of a negotiation, in which the principle is asserted by Great Britain, and a positive declaration made, that she never will cease to maintain it?

But again, sir, let us see in what manner this negotiation was to be conducted, and what were the powers of Mr. Jackson in relation to it. To do this, sir, with the most perfect fairness and impartiality, let me present the subject in Mr. Jackson's own words. His first annunciation will be found in page 63, of the printed documents:

"Beyond this point of explanation which was supposed to have been attained, but which is now given by the present letter in the form understood to be most

DECEMBER, 1809.

Conduct of the British Minister.

SENATE.

agreeable to the American Government, my instructions are prospective; they look to substituting for notions of good understanding, erroneously entertained, practical stipulations on which a real reconciliation of all differences may be substantially founded; and they authorize me not to renew proposals which have already been declared here to be unacceptable, but to receive and discuss any proposals made on the part of the United States, and *eventually* to conclude a convention between the two countries."

Now, sir, in what manner were these negotiations to commence? And to what point were they to extend? Why, Mr. Jackson tells us, that his prospective instructions do not authorize him to renew proposals which have already been declared to be unacceptable to the United States, but to receive and discuss any proposals made on the part of the United States, and *eventually* to conclude a convention, &c. Here, sir, Mr. Jackson has nothing on his part to propose, but sets himself up to be courted by new proposals on the part of the United States, and then he has power to receive and discuss any such proposal, and *eventually* to conclude a convention, &c.—underscoring the word *eventually* to give it a peculiar character and emphasis. Now, sir, I should like to know what events Mr. Jackson's instructions would call for, to take place between his positive power to receive and discuss, and his eventual power to conclude a convention, &c.—Why, sir, I suppose the proposals on the part of this Government must exactly fit his instructions without the Government's knowing what they were; and in case of such a lucky hit, these proposals might be transmitted to the British Government, and if there also approved, why, then, Mr. Jackson might eventually be invested with powers to conclude a convention, &c. So much by way of conjecture, as to Mr. Jackson's eventual powers. Now, sir, let me ask you, what does he tell us are his positive powers? A power merely to receive and discuss. Why, sir, every gentleman here present has that power; and, indeed, every lady too, sir, has the power to receive and discuss, and eventually to conclude a convention, &c. But, sir, the power merely to receive and discuss, is what is very properly called, and is, in fact, no power.

I am apprized that Mr. Jackson places this subject upon a ground somewhat different in his next letter; or, at least, it would appear so if that letter were taken by itself; but, in fact, I apprehend there is no material difference in the two statements. Let me, however, call your attention to his own words, which will be found in page 71, of the printed documents. In addressing Mr. Smith, Mr. Jackson says:

"I am surprised at the transition by which it appears to you that this part of the subject is connected with the authority empowering me to negotiate with you. It will not, I dare say, have escaped your recollection that I informed you, at a very early period of our communications, that, in addition to the usual credential letter, His Majesty had been pleased to invest me with a full power, under the great seal of his Kingdom, for the express purpose of concluding a treaty or convention."

Here, sir, Mr. Jackson, in a peculiarity of style and manner, says, that His Majesty has been pleased to invest him with a full power, and for the express purpose of concluding a treaty, &c. But here Mr. Jackson omits the mode of conducting the negotiation, and the conditions upon which he would be authorized to conclude, &c. But, sir, he had been very explicit upon those points before; and this sentence, therefore, must be taken in connexion with his previous explicit declarations in this respect, or Mr. Jackson would be reduced to the dilemma of a direct contradiction; therefore, sir, this new declaration is nothing more than an equivocal upon the former, and makes no material variation in the first announcement of his powers, and the mode pointed out for conducting the negotiations under them; especially, sir, as he took the precaution to underscore the word *eventually*, and therefore cautioned Mr. Smith to regard it as the most important and significant word in the sentence. Let me here inquire, sir, whether there is a single gentleman in the United States who now believes that a negotiation commenced and conducted under such auspices could be highly interesting to the United States or to Great Britain? Or, that it promised the smallest advantage to either? Still less could any gentleman conclude that it was causelessly or capriciously broken off by the Executive of the United States. And if impressions to this effect were intended to have been made on the American people, as is most obvious, then I am warranted in concluding that if this part of the appeal is not both false and fallacious, it is, at least, false or fallacious, and thus justifies to the full extent the expressions in the resolution.

I beg now, sir, to turn your attention to another part of this insidious appeal, in the following words:

"One of the facts alluded to has been admitted by the Secretary of State himself, in his letter of the 19th of October, viz., that the three conditions, forming the substance of Mr. Erskine's original instruction, were submitted to him by that gentleman. The other, viz., that that instruction is the only one in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, is known to Mr. Jackson by the instructions which he has himself received."

I now assert that the facts here stated are not true. If Mr. Jackson had never made any other statement than the preceding, I do not know that any offence would have been taken at it by the Executive Government. The offensive insinuations of Mr. Jackson are fully explained by Mr. Smith, in his letter of the 8th of November, in the following, which could not have been misunderstood by Mr. Jackson:

"In my letter of the 19th ultimo, I stated to you that the declaration in your letter of the 11th, that the despatch from Mr. Canning to Mr. Erskine, of the 23d of January, was the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related was then for the first time made to this Government. And it was added, that if that despatch had

been communicated at the time of the arrangement, or if it had been known that the propositions contained in it were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made.

"In my letter of the 1st instant, adverting to the repetition in your letter of the 23d ultimo of a language implying a knowledge in this Government that the instructions of your predecessor did not authorize the arrangement formed by him, an intimation was distinctly given to you that, after the explicit and peremptory asseveration that this Government had not any such knowledge, and that with such a knowledge, such an arrangement would not have been made, no such insinuation could be admitted by this Government.

"Finding that in your reply of the 4th instant, you have used language which cannot be understood but as reiterating and even aggravating the same gross insinuation, it only remains, in order to preclude opportunities which are thus abused, to inform you that no further communications will be received from you, and that the necessity of this determination will, without delay, be made known to your Government."

Now, sir, is it not most obvious that the grounds of complaint against Mr. Jackson, which caused the rupture in the negotiation, are very different from what he states them to have been in his insidious appeal to the people; and if so, sir, is not the appeal false or fallacious? or both?

Sir, another part of this insidious appeal, deserves some animadversions. It is in the following words—

"In stating these facts and adhering to them, as his duty imperiously enjoined him to do, Mr. Jackson could not imagine that offence would be taken at it by the American Government, as most certainly none could be intended on his part."

Sir, it is painful for me to be so often compelled to question the candor of any gentleman, particularly one clothed with the high functions of Minister Plenipotentiary of His Britannic Majesty; but permit me to ask you, sir, how it is possible for Mr. Jackson not to conceive that offence would be taken at his offensive insinuations after Mr. Smith's letter of the 1st of November; telling him in strong and decisive terms that offence had been taken at them? or how can Mr. Jackson reconcile it to himself to say that in adhering to these gross insinuations, he did not intend to give offence? Let me ask you, sir, what else he did, or could intend? For my part, I can see nothing else that he could either rationally intend or expect. Here then, sir, is another false or fallacious disguise thrown out before the people of the United States, as will always be the case in every appeal to them, calculated, or evidently intended, to excite their resentments and distrusts against their own Government.

Now, sir, upon the most critical review of this exposition, is there a single gentleman present, who is not prepared to say, that the facts stated in the resolution are fully justified by the correspondence? And if they be, sir, what inducement can possibly prevent unanimity on the present occasion? Surely those, who wish peace with Great Britain, will find unanimity upon this occasion the most likely to deter from war; and

surely, sir, every gentleman must feel and see that the declarations contained in the resolution are imperiously due to the dignity and honor of our own Government, as well as to our respect for the people and ourselves. Sir, what would be the effect of passing by unnoticed these gross and insidious insults to both the people and Government? Why, sir, foreign Ministers would begin to conceive, that an appeal to the people was amongst the most sacred of their privileges and immunities. The frequency of them already is almost sufficient to establish and sanctify the rule. The cases of Genet, Yrujo, the publication of Mr. Canning's letter in one of the Boston newspapers, &c., never received sufficient animadversions from Congress; and if this most aggravated case of all should pass over unnoticed, I should not be surprised to see Mr. Jackson during the present Winter set himself up as a British President in New York, contesting the point of jurisdiction before the people, with the American President at Washington; whilst Congress, regardless of their own Constitutional powers, &c., should stand by and behold the extraordinary scene in a state of perfect neutrality. Sir, is it possible, that Congress can so far forget their duties to the people and their respect for themselves? Independently of the obvious propriety of this proceeding in itself, have we, sir, no examples of the course of conduct recommended by the resolution? Let me remind you, sir, of the case of Count De Palm in the British Parliament. In that case, sir, the Count De Palm presented a memorial to the British King by the express order of his Government, complaining of the misrepresentation of facts made in the King's speech to Parliament, which complaint British historians admit was well founded. After presenting the memorial, he caused it to be published and circulated through the country, etc. What, sir, was the conduct of the British Parliament and nation upon that occasion? Sir, the Parliament unanimously entered into resolutions expressing the highest indignation at the insolent procedure; and presented an address to His Majesty requesting him to order the Count De Palm out of the country immediately. Sir, I will not trouble the Senate with reading the proceedings of the House of Commons upon this memorable occasion; because I presented them to the Senate last Winter in the case of the publication of Mr. Canning's letter in the Boston paper, and I, therefore, presume they are now fresh in the recollection of every gentleman. And what, sir, was the conduct of the opposition in the British House of Commons, when their King and country were insulted by a foreign Minister? Did they hold back, did they attempt to paralyze the proceedings of their Government in resenting this conduct and retrieving its wounded honor and dignity? No, sir, they were Englishmen and felt the indignity to themselves! They were patriots, and could not see their Government and nation insulted with indifference! They stepped forward, sir, and were the first to move the resolution and address. The proceeding was unani-

DECEMBER, 1809.

Privileges of Foreign Ministers.

SENATE.

mous; and what benefit did the British nation receive from this unanimous and prompt proceeding? Why, sir, from the year 1726 to the present time, the insult has not, I believe, been repeated, and probably never will again.

Sir, how honorable, how patriotic, was this course of conduct to the British opposition! How honorable and laudable would be its imitation here! Especially, sir, when union is all that is wanting to make us happy and victorious. Why then, sir, should we not have union, when it is so easy and efficacious a remedy for all our difficulties? Sir, the nation expects it; the nation has a right to demand it. May I not then hope, sir, that the hitherto dominant spirit of party will now yield to an occasion, so obvious, so urgent, so honorable! Sir, I cannot express to you the pleasure I should feel at my heart, if I could see all irritations banished, and harmony and mutual good will universally pervading all political scenes and all social intercourse. That the present occasion may be improved to this desirable end, is the most fervent prayer of one, who, in the present delicate, interesting crisis of the nation, feels a devotion for his country beyond everything else on this side of Heaven!

After Mr. GILES concluded, the question was taken on the passage of the resolution to a third reading. There were twenty-four members present, besides the President *pro tem.*; of whom twenty voted in favor of it. It was ordered to be read a third time on Monday next.

PRIVILEGES OF FOREIGN MINISTERS.

The Senate resumed, as in Committee of the Whole, the bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States; which was read the second time.

The question having been put on its passage to a third reading—

Mr. HILLHOUSE said he could have no objection to the passage of such a bill if he were satisfied of the necessity of it. It was not a novel subject, for it had been agitated three or four years ago in the case of the Spanish Minister, and there was a very unanimous opinion in the Senate in favor of such a provision, if it were necessary to carry the object into effect. But the Senate had been informed that the Executive did not think it necessary. Mr. H. said that he himself had been of the same opinion; he could scarcely suppose that the Government would have remained so long without a competent provision to enable the Executive to send away foreign Ministers conducting themselves improperly. He believed for his part that the Government had already competent authority to send them away; and as to the means, undoubtedly the proper means were within the direction of the President of the United States, who had the control of the military and naval force. A civil officer could only imprison a person, and had no power over him but in his own district; therefore, any authority given by the bill to civil officers would be incompetent to the purpose. A marshal could not remove a foreign Min-

ister out of the country; for the moment he stepped beyond his jurisdiction his power ceased. Such a service peculiarly belonged to the military and naval force, of which the President had already the entire direction. He therefore thought that the passage of this bill, instead of adding to the weight and character of the President, would be declaring that he is not possessed of the power which the Constitution has given him. He knew not why this bill should be now introduced. If it was in relation to the subject under consideration this morning, he presumed that the President would now as heretofore conceive that he had the power, and wanted no legislative assistance. Mr. H. said he certainly must vote against the bill, unless some necessity were shown for passing it. On the former occasion alluded to (the conduct of d'Yrujo) every one was convinced that the Executive had been insulted, and there was but one sentiment, that if the President had not the power of sending away a foreign Minister, he should be invested with it. And yet a bill for giving him that power had been rejected almost unanimously, upon the ground that no legislative provision was necessary; and if he was not much mistaken, information was given to the Senate through those who were in the confidence of the Executive, that he did not want an investiture of the power by Congress; conceiving that he possessed it from a higher source, the Constitution of the United States, which authorized him to receive foreign Ministers, in which power was included everything necessary to carry it into execution. Could it have been expected by the framers of the Constitution, that, in case of collision with a foreign Minister, the President was to wait for the passage of a law by Congress before he could act? This subject had never escaped the attention of Congress; but the President had always been conceived to possess ample power for the purpose contemplated by the bill. If such a provision however were necessary, a law for the purpose ought to have been passed long ago. Under present impressions, Mr. H. said, he should consider this bill as an attempt to express the opinion of Congress that the President did not possess a power which he believed to be vested in him by the Constitution; and therefore he must vote against it.

Mr. GILES said that he did not feel himself at this time qualified to go into any observations on the bill. It certainly was not his wish to press through the Senate a bill without its being well considered, particularly when it involved a Constitutional question. He did not know that the President might not have been supposed to possess the power proposed to be given to him by the bill; but he knew very well that the President never had ventured to exercise it. Not wishing to press the bill, he had no objection that it should lie on the table, if any gentleman should think proper to make a motion for that purpose.

Mr. POPE said he had been forcibly struck with the remarks of the gentleman from Connecticut, not that he deemed the bill unnecessary, even although the President might already have such a

power; for, as so much jealousy existed in this country of Executive power, perhaps Congress should nevertheless express its opinion on this point. He was of opinion also that that part of the bill which related to civil officers should be stricken out. The natural agent of the Executive authority was the naval or military power. To give further time for the consideration of the bill he moved to postpone it till Monday next.

The motion for postponement was agreed to; and the Senate adjourned till Monday next.

MONDAY, December 11.

Mr. GILMAN, from the committee, reported the resolution relating to the official correspondence between the Secretary of State and Francis J. Jackson, Minister Plenipotentiary of His Britannic Majesty, correctly engrossed; and the resolution was read the third time.

On the question, Shall this resolution pass? it was determined in the affirmative—yeas 20, nays 4, as follows:

YEAS—Messrs. Bradley, Brent, Condit, Crawford, Gaillard, German, Giles, Gilman, Gregg, Griswold, Lambert, Leib, Matthewson, Meigs, Parker, Pope, Reed, Smith of Maryland, Sumter, and Turner.

NAYS—Messrs. Goodrich, Hillhouse, Lloyd, and Pickering.

Mr. LEIB, from the committee to whom was referred, on the 6th instant, the petition of Joseph Joshua Dyster, reported a bill to extend certain privileges therein mentioned to Joseph Joshua Dyster; and the bill was read, and passed to the second reading.

Mr. POPE, from the committee to whom was referred the bill, entitled "An act supplemental to an act, entitled 'An act extending the right of suffrage in the Indiana Territory, and for other purposes,'" reported the bill without amendment; and on motion, by Mr. BRADLEY, the bill was amended.

Ordered, That it pass to the third reading, as amended.

The Senate resumed, as in Committee of the Whole, the bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States; and no amendment having been offered, on the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

Mr. BRENT presented the petition from the committee of the board of trustees of the institution for the education of youth in the City of Washington, praying an act of incorporation for the establishment of a college therein; which was read, and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. BRENT, GOODRICH, and BRADLEY, were appointed the committee.

Mr. POPE, agreeably to notice, presented a bill in addition to an act regulating the laying out and making a turnpike road from Cumberland in the State of Maryland, to the State of Ohio. [The bill contemplates an additional appropriation of \$50,000 for this object.] The bill was read and passed to a second reading.

RECRUITING SERVICE.

The bill to repeal an act, entitled "An act to suspend for a limited time the recruiting service," was read a second time.

Mr. LEIB observed that it was the usual course of business to refer a bill introduced by a member to a select committee on its second reading. Not wishing to travel out of the usual routine of business, he made that motion in relation to this bill.

Mr. GILES observed that if he could ascertain the object of a commitment, he should have no objection to it; but that this was a bill not susceptible of modification, containing but one principle, and the sooner it was acted on the better. He was therefore opposed to commitment.

Mr. LEIB said he had only made the motion in deference to the usual practice of the Senate. He was also of opinion that the sooner it was acted on the better; and, on the suggestion of the gentleman from Virginia, he withdrew the motion for reference.

The bill was then ordered to be engrossed for a third reading.

TUESDAY, December 12.

The PRESIDENT laid before the Senate a report of the Secretary of the Treasury, prepared in obedience to the directions of the act, entitled "An act regulating the currency of foreign coins in the United States," passed April 10th, 1806; which was read, and ordered to lie for consideration.

The bill to extend certain privileges therein mentioned to Joseph Joshua Dyster was read the second time. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The bill in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio, was read the second time. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act extending the time for issuing and locating military land warrants;" in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

The bill, entitled "An act supplemental to an act, entitled 'An act extending the right of suffrage in the Indiana Territory, and for other purposes,'" was read the third time as amended, and passed.

The bill to repeal the act, entitled "An act to suspend, for a limited time, the recruiting service," was read the third time, and the further consideration thereof postponed until the 1st day of August next.

The bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers, within the United States, was resumed, and the further consideration of the bill postponed until to-morrow.

DECEMBER, 1809.

Proceedings.

SENATE.

WEDNESDAY, December 13.

The bill, entitled "An act extending the time for issuing and locating military land warrants," was read the second time, and passed to the third reading.

Mr. POPE presented the petition of the inhabitants of the Mississippi Territory east of Pearl river, stating that their remote situation renders it difficult, if not impracticable for them to participate in the benefits of the Territorial government; and praying a division of the said Territory, for reasons stated at large in the petition; which was read.

Mr. MEIGS gave notice that to-morrow he should ask leave to bring in a bill to authorize the surveying and making of certain roads in the State of Ohio, as contemplated in the treaty of Brownstown, in the Michigan Territory.

The bill in addition to the "Act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," was read the third time, and passed.

The bill to extend certain privileges therein mentioned to Joseph Joshua Dyster, was read the third time, and passed.

The bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers, within the United States, was read the third time, and it was agreed further to postpone the consideration thereof until to-morrow.

THURSDAY, December 14.

The bill, entitled "An act extending the time for issuing and locating military land warrants," was read the third time, and passed.

The Senate resumed the bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States.

On motion, by Mr. GILES,

Ordered, That the bill be recommitted to the original committee, further to consider and report thereon.

Mr. MEIGS asked and obtained leave to bring in a bill to authorize the surveying and making of certain roads in the State of Ohio, as contemplated in the treaty of Brownstown, in the Michigan Territory; and the bill was read, and passed to the second reading.

Mr. LEIB submitted the following motion for consideration:

Resolved, That the President of the United States be requested to cause to be laid before the Senate a copy of the correspondence between him and the Governor of Pennsylvania, in the case of Gideon Olmstead.

Mr. BRADLEY asked and obtained leave to bring in a bill to incorporate religious societies in the District of Columbia; and the bill was read, and passed to the second reading.

FRIDAY, December 15.

The Senate resumed the consideration of the motion made yesterday on the subject; and

Resolved, That the President of the United States be requested to cause to be laid before the

11th CON. 1st SESS.—17

Senate a copy of the correspondence between him and the Governor of Pennsylvania, in the case of Gideon Olmstead.

Ordered, That the Secretary lay this resolution before the President of the United States.

The Senate resumed the consideration of the bill to incorporate religious societies in the District of Columbia; and on motion, by Mr. BRADLEY, it was agreed that the further consideration thereof be the order of the day for the first Monday in January next.

Mr. SMITH, of Maryland, gave notice that on Monday he should ask leave to bring in a bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason.

The bill to authorize the surveying and making of certain roads in the State of Ohio, as contemplated by the treaty of Brownstown, in the Territory of Michigan, was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. MEIGS, BRADLEY, and POPE, were appointed the committee.

Mr. BRADLEY submitted the following resolution:

Resolved, That the Secretary of the Treasury be, and hereby is, requested to lay before the Senate a statement of the payments which have been made by the respective States, of the direct tax; designating, as far as may be, what sums have been paid into the Treasury; what sums are unaccounted for by the supervisors; what sums are in the hands of collectors; and the persons in whose hands such moneys are; and what sums are still due from any of the respective States.

MONDAY, December 18.

JOHN SMITH, from the State of New York, attended.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act to revive an act, entitled 'An act for the relief of the refugees from the British provinces of Canada and Nova Scotia, and for other purposes,'" in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

Mr. SMITH, of Maryland, asked and obtained leave to bring in a bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion, made on the 15th instant, respecting the direct tax; and

Resolved, That the Secretary of the Treasury be, and hereby is, requested to lay before the Senate a statement of the payments which have been made, by the respective States, of the direct tax; designating, as far as may be, what sums have been paid into the Treasury; what sums are unaccounted for by the supervisors; what sums are in the hands of collectors, and the persons in whose hands such moneys are; and what sums are still due from any of the respective States.

SENATE.

Proceedings.

DECEMBER, 1809.

Mr. GILES, from the committee to whom was recommitteed the bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States, reported amendments; which were read for consideration.

The PRESIDENT communicated a letter, of this date, from the honorable BUCKNER THRUSTON, stating that he had, this day, by letter to his Excellency the Governor of the State of Kentucky, resigned his seat in the Senate of the United States.

Whereupon, on motion, by Mr. POPE,

Resolved, That the President of the Senate notify the Executive of the State of Kentucky that the honorable Buckner Thruston, late Senator of that State, has resigned his seat in the Senate of the United States.

TUESDAY, December 19.

The VICE PRESIDENT attended.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

Agreeably to the request in the resolution of the 15th instant, I transmit a copy of the correspondence with the Governor of Pennsylvania, in the case of Gideon Olmstead. JAMES MADISON.

DECEMBER 16, 1809.

The Message and papers therein referred to were read, and ordered to be printed for the use of the Senate.

The bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason, was read the second time; and the further consideration thereof postponed until to-morrow.

The bill to revive an act, entitled "An act for the relief of the refugees from the British Provinces of Canada and Nova Scotia, and for other purposes," was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee, to whom was recommitteed the bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States; and, having agreed to the report, the President reported the bill to the House accordingly. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. BRENT presented the petition of the stockholders of the Bank of Washington, praying a charter of incorporation, for reasons stated at large in the petition; which was read, and referred to a select committee, to consist of five members; and Messrs. BRENT, GREGG, POPE, SMITH of New York, and BRADLEY, were appointed the committee, to consider and report thereon, by bill or otherwise.

WEDNESDAY, December 20.

Mr. GILMAN, from the committee, reported that they had examined and found correctly engrossed the bill to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within

the United States; and the bill was read a third time. On the question, Shall this bill pass? it was determined in the affirmative—yeas 20, nays 2, as follows:

YEAS—Messrs. Bradley, Condit, Gaillard, German, Giles, Gilman, Goodrich, Gregg, Lambert, Leib, Lloyd, Mathewson, Meigs, Parker, Pope, Robinson, Smith of Maryland, Smith of New York, Sumter, and Turner.

NAYS—Messrs. Hillhouse, and Pickering.

So it was resolved that this bill pass, and that the title thereof be "An act to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States."

The Senate resumed the consideration of the bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason; and it was agreed further to postpone the consideration thereof until to-morrow.

The Senate resumed the consideration of the bill to revive an act, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia, and for other purposes;" and, on motion by Mr. BRADLEY, it was referred to a select committee; and Messrs. BRADLEY, GOODRICH, and LLOYD, were appointed the committee, to consider and report thereon.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act for the relief of William and Elias Rector," in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading. The bill was read a second time, by unanimous consent, and referred to a select committee. And Messrs. POPE, MEIGS, and BRADLEY, were appointed the committee, to consider and report thereon.

The PRESIDENT communicated a letter from the Secretary of War, enclosing his report on the subject of fortifications.

On motion by Mr. SMITH, of Maryland, the galleries were cleared, and the letter and report having been read, they were ordered to lie for consideration.

Mr. GAILLARD presented the petition of a number of the inhabitants of the City of Washington, signed Daniel Carroll of Duddington, and others, praying to be incorporated for the purpose of completing a road as far as the line of the District of Columbia, in the most direct route from the Capitol, by Montgomery court-house to Fredericktown, and also a road passing over the Washington bridge, in the proper direction to Staunton, in Virginia, for reasons stated in the petition; which was read, and referred to a select committee.

Ordered, That Messrs. GAILLARD, BRENT, and BRADLEY, be the committee, to consider and report thereon, by bill or otherwise.

Mr. BRADLEY gave notice that, to-morrow, he should ask leave to bring in a bill making further provision for the corps of engineers.

THURSDAY, December 21.

JOSEPH ANDERSON, from the State of Tennessee, attended.

DECEMBER, 1809.

Proceedings.

SENATE.

Mr. POPE, from the committee to whom was referred the bill, entitled "An act for the relief of William and Elias Rector," reported the bill without amendment, and it was ordered to the third reading.

The PRESIDENT communicated the report of the Secretary of War, on the petition of Richard Bland Lee, made in obedience to the resolution of the Senate of the 21st of June last; which was read, and ordered to lie for consideration.

The Senate resumed the consideration of the bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason; and, on motion by Mr. SMITH of Maryland, it was referred to a select committee; and Messrs. SMITH of Maryland, LLOYD, and BRADLEY, were appointed the committee to consider and report thereon.

Resolved, That a committee of three members of the Senate be appointed, who, with three members of the House of Representatives, to be appointed by the said House, shall have the application of the money appropriated by the "Act making a further appropriation for the support of a library," passed the 21st of February, 1806; and that the Secretary give information thereof to the House of Representatives.

Ordered, That Messrs. LLOYD, LEIB, and SMITH of Maryland, be the committee on the part of the Senate.

Mr. BRADLEY asked and obtained leave to bring in a bill making further provision for the corps of engineers; and the bill was read, and passed to the second reading.

FRIDAY, December 22.

The bill, entitled "An act for the relief of William and Elias Rector," was read the third time, and passed.

On motion, by Mr. LEIB,

Resolved, That a committee be appointed agreeable to the 42d rule, for conducting business in the Senate; and

Ordered, That Messrs. GOODRICH, LEIB, and CONDIT, be the committee.

Mr. MEIGS, from the committee to whom was referred the bill to authorize the surveying and making of certain roads in the State of Ohio, as contemplated by the Treaty of Brownstown, in the Territory of Michigan, reported amendments; which were read for consideration.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I transmit to both Houses of Congress a report from the Surveyor of the Public Buildings, of the progress made on them during the last season, and of other explanations relative thereto.

JAMES MADISON.

DECEMBER 16, 1809.

The Message and report were read, and ordered to lie for consideration.

The bill making further provision for the corps of engineers was read a second time; and it

was agreed that the further consideration thereof be the order of the day for the first Thursday in January next.

TUESDAY, December 26.

JESSE FRANKLIN, from the State of North Carolina, attended.

Mr. BRADLEY submitted the following motion:

Resolved, That the President of the United States be, and hereby is, requested to cause to be laid before the Senate the amount of all the moneys disbursed from the Treasury of the United States, in their relation or intercourse with the Barbary Powers, subsequent to the signing of the Treaty of Peace with Tripoli, in June, 1805, including the moneys paid to that Regency at the signing thereof. And to cause to be noted (where the same can be ascertained) the agent or consul to whom the respective disbursements were made, the time when, and place where, the respective sums were drawn for or received by said agents or consuls, and the particular purposes to which the same have been applied; and what sums have been retained in the hands of said agents or consuls, for compensation, salary, commissions, or for any other purpose.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee, to whom was referred the bill to authorize the surveying and making of certain roads in the State of Ohio, as contemplated by the Treaty of Brownstown, in the Territory of Michigan; and having agreed to the report, the President reported the bill to the House amended accordingly. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

WEDNESDAY, December 27.

Mr. GILMAN, from the committee, reported that they had examined and found correctly engrossed the bill to authorize the surveying and making of certain roads in the State of Ohio, as contemplated by the Treaty of Brownstown, in the Territory of Michigan; and the bill was read the third time, and passed.

The Senate resumed the consideration of the motion made yesterday on the subject; and,

Resolved, That the President of the United be, and hereby is, requested to cause to be laid before the Senate the amount of all the moneys disbursed from the Treasury of the United States, in their relation or intercourse with the Barbary Powers, subsequent to the signing of the Treaty of Peace with Tripoli, in June, 1805, including the moneys paid to that Regency at the signing thereof. And to cause to be noted (where the same can be ascertained) the agent or consul to whom the respective disbursements were made, the time when, and place where, the respective sums were drawn for or received by said agents or consuls, and the particular purposes to which the same have been applied; and what sums have been retained in the hands of said agents or consuls, for compensation, salary, commissions, or for any other purpose.

Ordered, That the Secretary lay this resolution before the President of the United States.

A message from the House of Representatives informed the Senate that the House concur in the resolution of the Senate, for the appointment of a joint committee on the arrangements for the library, and appointed a committee on their part.

THURSDAY, December 28.

CHARLES TAIT, appointed a Senator by the Legislature of the State of Georgia, in the place of JOHN MILLEDGE, resigned, produced his credentials; which were read, and, the oath prescribed by law having been administered to him, he took his seat in the Senate.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to the resolution of the Senate, of the 18th instant, respecting the direct tax; which was read, and ordered to lie for consideration.

Mr. POPE gave notice that on to-morrow he should ask leave to bring in a bill concerning canals and roads in the United States.

FRIDAY, December 29.

Mr. BRADLEY, from the committee to whom was referred the letter from the Surveyor of the Public Buildings, of the 28th of November last, reported the following resolution:

Resolved, That, from and after the first day of January next, the Senate will hold their session in the new Senate Chamber lately provided in the north wing of the Capitol.

On motion, by Mr. ANDERSON, it was agreed that the consideration of the report be postponed to Tuesday next.

TUESDAY, January 2, 1810.

JAMES A. BAYARD, from the State of Delaware, attended.

The PRESIDENT communicated the report of the Secretary of War, made in obedience to the first section of the act, "further to amend the several acts for the establishment of the Treasury, War, and Navy Departments," passed the third day of March, 1809, which was read, and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the bill to incorporate religious societies in the District of Columbia. On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

Mr. MEIGS presented the petition of Daniel Boone, an inhabitant of the Territory of Louisiana, stating that he has spent a long life in exploring the wilds of North America; and that he has, by his own personal exertions, been greatly instrumental in opening the road to civilization in the immense territories now attached to the United States, and, in some instances, matured into independent States; and praying a grant of some reasonable portion of land, within the Territory of Louisiana, as a compensation for his services; and the petition was read.

WEDNESDAY, January 3.

Mr. SMITH, of Maryland, presented the petition of the President and Directors of the Union Bank of Georgetown, praying a charter of incorporation, for reasons stated at large in the petition; which was read, and referred to Messrs. BRENT, GREGG, POPE, SMITH of New York, and BRADLEY, the committee to whom was referred, on the 19th December last, a similar petition of the Directors of the Bank of Washington, to consider and report thereon, by bill or otherwise.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

The act authorizing a detachment of one hundred thousand men from the militia, will expire on the 30th of March next. Its early revival is recommended, in order that timely steps may be taken for arrangements such as the act contemplated.

Without interfering with the modifications rendered necessary by the defects or inefficacy of the laws, restrictive of commerce and navigation, or with the policy of disallowing to foreign armed vessels the use of our waters, it falls within my duty to recommend, also, that, in addition to the precautionary measure authorized by that act, and to the regular troops, for completing the legal establishment of which enlistments are renewed, every necessary provision may be made for a volunteer force of twenty thousand men, to be enlisted for a short period, and held in a state of organization and readiness for actual service at the shortest warning.

I submit to the consideration of Congress, moreover, the expediency of such a classification and organization of the militia, as will best insure prompt and successive aids from that source, adequate to emergencies which may call for them.

It will rest with them, also, to determine how far further provision may be expedient for putting into actual service, if necessary, any part of the naval armament not now employed.

At a period presenting features in the conduct of foreign Powers towards the United States, which impose on them the necessity of precautionary measures involving expense, it is a happy consideration that such is the solid state of the public credit, that reliance may be justly placed on any legal provision that may be made for resorting to it in a convenient form and to an adequate amount.

JAMES MADISON.

JANUARY 3, 1810.

The Message was read, and referred to Messrs. GILES, POPE, BRADLEY, GOODRICH, LEIB, SUMTER, and GILMAN, the committee to whom was referred, on the 1st December last, so much of the Message of the President of the United States as respects the relations existing between the United States and Great Britain and France, to consider and report thereon by bill or otherwise.

Mr. GILMAN, from the committee, reported that they had examined and found correctly engrossed the bill to incorporate religious societies in the District of Columbia; and the bill was read the third time.

On motion, by Mr. GILMAN, it was agreed, by unanimous consent, to amend the bill, after the proviso in the 6th section, and to strike out the

JANUARY, 1810.

Public Roads and Canals.

SENATE.

words, "in this act;" and, on motion, by Mr. GILES, it was agreed that the further consideration of this bill be postponed to the first Monday in February next.

On motion by Mr. MEIGS,

Resolved, That the petition of Daniel Boone, presented yesterday, be referred to a select committee; and Messrs. MEIGS, ANDERSON, and POPE, were appointed the committee, to consider and report thereon by bill or otherwise.

THURSDAY, January 4.

JENKIN WHITESIDE, from the State of Tennessee, attended.

The Senate resumed, as in Committee of the Whole, the bill making further appropriations for the corps of engineers; and on motion, by Mr. GERMAN, it was agreed that the further consideration thereof be postponed to the last Tuesday of January instant.

On motion by Mr. PICKERING, the following resolution, having been amended, was agreed to.

Resolved, That the Secretary of War be directed to lay before the Senate a return of the corps of engineers and cadets belonging to the Military Academy.

The PRESIDENT communicated the report of the Secretary of War on the expenditures of the moneys appropriated for the contingent expenses of the Military Establishment for the year 1809, in conformity to the fifth section of the act of the 3d March, 1809, further to amend the several acts for the establishment of the Treasury, War, and Navy Departments; which was read for consideration.

The PRESIDENT, also, communicated the report of the Secretary of the Navy on the expenditures and application of the moneys drawn from the Treasury from the 4th of March, to the 30th of September, 1809, inclusive; made in obedience to the first section of the same act; which was read for consideration.

The Senate resumed the report of the committee to whom was referred the letter from the Surveyor of Public Buildings, of the 28th November last; and it was agreed further to postpone the consideration thereof until Monday next.

FRIDAY, January 5.

On motion, by Mr. BAYARD,

Resolved, That the reports of the Attorney General of the United States, made to the Senate, in pursuance of their order of the 6th February, 1807, be referred to a select committee, and that the said committee have power to report by bill or otherwise.

Ordered, That Messrs. BAYARD, CRAWFORD, and HILLHOUSE, be the committee.

Mr. GILES submitted the following motion:

Resolved, (the House of Representatives concurring therein,) That a joint committee be appointed to present to the President of the United States the joint resolution of the two Houses respecting the conduct of Francis J. Jackson, His Britannic Majesty's Minister Plenipotentiary near the United States; and that

the Committee on the part of the Senate consist of ——— members.

PUBLIC ROADS AND CANALS.

Mr. POPE asked and obtained leave to bring in a bill for the improvement of the United States by public roads and canals; which was read, and passed to the second reading. The bill is as follows:

A Bill for the improvement of the United States, by public roads and canals.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That, in all cases in which any company or companies shall have been heretofore incorporated, or shall in future be incorporated, under the authority of any State, or the concurring authorities of any two or more States within which the canals and roads hereinafter enumerated and described shall lie, or through which they shall pass, for the cutting, constructing, and making such canals and roads, and of the capital stock, of which at least one-half shall have been subscribed, either by individuals, bodies politic and corporate, or by States, the President of the United States, on the application of such company or companies, shall be authorized, and is hereby authorized, to subscribe unto the capital stock of such company or companies, but in the manner and under the restrictions in this act contained, to the amount which may be deficient in the subscriptions to the said stock, not exceeding the one-half of the whole capital stock of such company or companies, to wit:

1. To the capital stock of any company or companies which may be incorporated by the States of Massachusetts and Rhode Island, for the purpose of cutting a canal from the harbor of Boston to the navigable waters of Newport Bay, in the State of Rhode Island.

2. To the capital stock of any company which may be incorporated by the State of New Jersey, for the purpose of cutting a canal from the navigable waters of Raritan to the navigable waters of the Delaware.

3. To the capital stock of the Chesapeake and Delaware Canal Company.

4. To the capital stock of the Dismal Swamp Canal Companies of Virginia and North Carolina, or of any other company or companies incorporated for the purpose of cutting a canal from the navigable waters of James river to Albemarle Sound, sufficiently deep for sloop navigation.

5. To the capital stock of any company or companies incorporated by the State of New York, for the purpose of cutting a canal from the Hudson or its waters, to the waters of Lake Ontario, or of Lake Erie.

6. To the capital stock of any company incorporated by the State of New York, for the purpose of cutting a canal for vessels drawing ten feet water, to pass the Falls of Niagara.

7. To the capital stock of any company incorporated by the State of New York, for the purpose of cutting a canal from the river Hudson to the waters of Lake Champlain.

8. To the capital stock of any company incorporated by the States of Ohio or Pennsylvania, for the purpose of cutting a canal from the waters of the Ohio to those of Lake Erie.

9. To the capital stock of any company incorporated by the State of Kentucky, for the purpose of cutting a canal to pass the Falls of Ohio.

10. To the capital stock of any company or companies which shall be incorporated by the States of Virginia or North Carolina, for the purpose of cutting a canal from the waters of the Roanoke, above the Great Falls, to the waters of the Appomattox.

11. To the capital stock of any company or companies which shall be incorporated for the purpose of cutting a canal from the waters of the Tennessee river to the waters of the Tombigbee.

12. To the capital stock of any company or companies which may be incorporated by any of the States for the purpose of making turnpike roads from the highest navigable waters of the Atlantic to the nearest navigable waters of the Western States.

13. And to the capital stock of any company or companies which may be incorporated by any one or more States, for the purpose of making a turnpike road or roads, in the most proper direction, for carrying the general mail from and through the District of Maine, in the State of Massachusetts, to and through the State of Georgia.

14. And to the capital stock or stocks of any company or companies which may be formed by any one or more States, for the purpose of cutting such canals, opening and clearing such rivers, or making such turnpike roads, as may hereafter be approved of by Congress.

SEC. 2. *And be it further enacted*, That whenever application by any of the companies, in this act enumerated, which are now incorporated, or may hereafter be incorporated, for the purpose of cutting, constructing, and making the said canals, or roads, shall be made as aforesaid, an authentic map and description of such canal or road, explaining the manner in which the same is proposed to be carried into effect, shall be deposited with the Secretary of the Treasury, together with a correct list and account of all the subscriptions and payments which shall have been made to the capital stock of such company or companies, and also a copy of the law under which the company or companies shall have been incorporated and empowered to act; and, also, if the said company have already commenced their operation, have a clear and detailed statement of all the expenses they shall have incurred, of all the moneys due to them by stockholders and others, and of the debts due by them, and also a complete schedule of all the lands, effects, and rights, belonging to said company or companies; and if it shall appear to the satisfaction of the President that all the provisions of this act have been and are fully satisfied, and complied with, and that competent provision has been made for cutting or making the said canals or roads, and efficient provision for the payment of the shares subscribed therefor, and for the recovery of any arrears thereon, so as that the portion actually payable by the United States, shall never exceed one-half of the capital stock actually paid or payable for such work; and that the canal or road for effecting which such company or companies have been incorporated, is one of those enumerated and described in this act; and that, in his opinion, there is no sufficient objection to the line or lines, on which the said companies propose to carry the said canals or roads, then the said subscription on the part of the United States shall be made in the form and manner in this act authorized. But, if any objection as aforesaid, occur to the line or lines, on which the said companies propose to carry their canals or roads, then it shall be lawful for the President to withhold the subscription on behalf of the United States, until the

line of said canals or roads shall be located in such manner as to him may appear proper.

SEC. 3. *And be it further enacted*, That the Register of the Treasury shall, under the direction of the Secretary of the Treasury, issue certificates for the amount of the instalments of that part of the capital stock of the company or companies aforesaid, subscribed on the part of the United States, as the said instalments shall, from time to time, become payable under the several laws of incorporation of such companies; which said certificates shall bear interest, at the rate of six per cent. a year, from the time and times respectively at which the instalments above mentioned shall become payable as aforesaid, and shall be assignable and transferable as other certificates of the United States stock; but the principal of said certificates shall be redeemable at the will of the United States, and payable out of the proceeds of the tract of land hereinafter designated; and the proceeds of the sales of the public land contained in the said tract, shall, from time to time, be applied by the Secretary of the Treasury, with the approbation of the President, to the payment of the principal of such subscription, by either purchasing or redeeming the certificates issued as aforesaid, as may be most convenient.

SEC. 4. *And be it further enacted*, That, in order to make good and secure the payment of the interest on the certificates issued as by this act provided, so much of the money arising from the sale of the public lands of the United States, as may be necessary, shall be, and is hereby, appropriated, the said interest to be paid in the same manner as the interest of the public debt of the United States, and at such place or places as the Secretary of the Treasury shall direct.

SEC. 5. *And be it further enacted*, That it shall and may be lawful for the President to cause the shares which shall belong to the United States, of the capital stock of any of the companies to which subscription may be made on the part of the United States as aforesaid, to be sold, provided the same shall not be sold under par, and the moneys arising from such sales and also from dividends of the profits on the stock of any of the said companies belonging to the United States, may be applied to the payment, redemption, or purchase of the interest, or principal, of any certificates issued by the United States under the provisions of this act.

SEC. 6. *And be it further enacted*, That, in order to make provision for the purchase or redemption of the certificates issued under this act, the proceeds of all the public land of the United States, contained in a tract, bounded on the east by the western boundary of the Connecticut reserve; on the south by the forty-first degree of north latitude; on the west by that meridian which forms the western boundary of the State of Ohio, continued northwardly to the Lake Michigan; and northwardly and eastwardly by the Lakes Michigan, Huron, St. Clair, and Erie, and the straits by which they are connected, or so much thereof as may be necessary, is hereby appropriated.

SEC. 7. *And be it further enacted*, That, with respect to the companies which may be already incorporated for any of the purposes above recited, the shares constituting the subscription which may be made on the part of the United States, as by this act provided, shall be vested in the United States, and it shall and may be lawful for the President to appoint a proxy to vote at any stated or other meeting of the stockholders on behalf of the United States. But that no subscription

JANUARY, 1810.

Proceedings.

SENATE.

to the capital stock of any company to be hereafter incorporated, for any of the purposes by this act enumerated, shall be made by the President, unless it be specially provided by such act of incorporation, that the subscription which shall be made on the part of the United States to the capital stock of such company, shall give to the President a number of votes, equal to one-third of all the votes to which the shares of such company are entitled, and no more, and also that the books and papers of such companies shall be at all times open to inspection and examination, by any person or persons to be appointed by the President, on behalf of the United States for that purpose.

MONDAY, January 8.

On motion of Mr. MEIGS,

Resolved, That a committee be appointed to inquire into the expediency of establishing by law a Land Department of the United States, and that they have leave to report by bill or otherwise; and

Ordered, That Messrs. MEIGS, GREGG, ANDERSON, CRAWFORD, and POPE, be the committee.

On request, by Mr. GILES, it was agreed that he have leave to withdraw his motion, made on the 9th instant, for the appointment of a joint committee.

The PRESIDENT communicated a letter from the Secretary of War, in obedience to a resolution of the Senate of the 4th instant, enclosing a return of the Corps of Engineers and Cadets belonging to the Military Academy; and the letter and return were read, and ordered to lie for consideration.

The bill for the improvement of the United States, by public roads and canals, was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. POPE, BAYARD, ANDERSON, CRAWFORD, and HILLHOUSE, were appointed the committee.

On motion, by Mr. POPE,

Ordered, That the report of the Secretary of the Treasury on the subject of public roads and canals, made in pursuance of the resolution of the Senate of March 2, 1807, be referred to the same committee.

The Senate resumed the report of the committee to whom was referred the letter from the Surveyor of the Public Buildings of the 28th of November last; and it was agreed further to postpone the consideration thereof to the first Monday in February next.

TUESDAY, January 9.

Mr. GAILLARD, from the committee to whom was referred on the 20th December last, the petition of a number of the inhabitants of the City of Washington, praying to be incorporated for the purpose of completing certain roads in the District of Columbia, reported a bill to incorporate a company for making certain turnpike roads in the District of Columbia; which was read, and passed to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a

bill entitled "An act to revive and continue in force for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to a second reading.

WEDNESDAY, January 10.

The bill, entitled "An act to revive and continue in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States against the Barbary Powers,'" was read the second time; and, on motion by Mr. SMITH of Maryland, the bill was read the third time by unanimous consent, and passed.

Mr. GILES, from the committee to whom was referred the Message of the President of the United States of the third instant, reported, in part, a bill authorizing the fitting out, officering, and manning, the frigates belonging to the United States; which was read, and passed to a second reading.

Mr. MEIGS, from the committee to whom was referred, on the 3d instant, the petition of Daniel Boone, reported a bill for the relief of Daniel Boone: which was read, and passed to a second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of

Representatives of the United States:

The Director of the Mint having made to me his report of the operations of the Mint for the year 1809, I lay the same before you for your information.

JAMES MADISON.

JANUARY 9, 1810.

The Message and communications were read, and ordered to lie for consideration.

The bill to incorporate a company for making certain turnpike roads in the District of Columbia was resumed; and the consideration thereof postponed until to-morrow.

THURSDAY, January 11.

The bill for the relief of Daniel Boone was read the second time, and, on motion of Mr. BRADLEY, the bill, together with the petition of Daniel Boone, was recommitted to a select committee, to consider and report a state of facts thereon. And Messrs. ANDERSON, MEIGS, and POPE, were appointed the committee.

The bill authorizing the fitting out, officering, and manning the frigates belonging to the United States, was read the second time. On the question, Shall the bill be engrossed and read the third time? it was determined in the affirmative.

The bill to incorporate a company for the purpose of making certain turnpike roads in the District of Columbia was read the second time, and considered as in Committee of the Whole; and, after progress, the further consideration thereof was postponed until to-morrow.

SENATE.

Volunteer Corps.

JANUARY, 1810.

Mr. BRADLEY gave notice that, to-morrow, he should ask leave to bring in a bill to augment the compensation to the circuit judges of the circuit court of the District of Columbia.

Mr. MEIGS presented the resolution of the Legislature of the State of Ohio, instructing their representation in Congress to use their endeavors to procure an extension of the time of payments for public lands in certain cases; which was read: Whereupon, Mr. M. submitted the following motion for consideration:

Resolved, That a committee be appointed to inquire into the expediency of extending by law the times of payment for public lands in certain cases.

FRIDAY, January 12.

ALEXANDER CAMPBELL, appointed a Senator by the Legislature of the State of Ohio, in place of Edward Tiffin, resigned; and CHRISTOPHER G. CHAMPLIN, appointed a Senator by the Legislature of the State of Rhode Island, in the place of Francis Malbone, deceased; severally produced their credentials, which were read. And the oath prescribed by law having been administered to them, they took their seats in the Senate.

Mr. GILMAN, from the committee, reported that they had examined, and found correctly engrossed, the bill authorizing the fitting out, officering, and manning, the frigates belonging to the United States; and the bill was read the third time. And, on motion by Mr. GILES, it was agreed that the further consideration thereof be postponed until Monday next.

The Senate resumed the consideration of the motion made yesterday, on the subject of public lands; and,

Resolved, That a committee be appointed to inquire into the expediency of extending by law the times of payment for public lands in certain cases.

Ordered, That Messrs. MEIGS, FRANKLIN, and GREGG, be the committee.

Ordered, That the resolution of the Legislature of the State of Ohio, yesterday communicated to the Senate, be referred to the same committee.

The Senate resumed, as in Committee of the Whole, the bill to incorporate a company for making certain turnpike roads in the District of Columbia. And, on motion by Mr. ANDERSON, it was agreed further to postpone the consideration thereof to Tuesday next.

Mr. BRADLEY asked and obtained leave to bring in a bill to augment the compensation to the judges of the circuit court of the District of Columbia; and the bill was read, and passed to the second reading.

On motion of Mr. GILMAN,

Ordered, That Mr. CAMPBELL be on the committee, agreeably to the twenty-second rule for conducting business in the Senate, in place of Mr. GRISWOLD.

Mr. MEIGS, from the committee to whom was recommended the petition of Daniel Boone, together with the bill for his relief, made report; which was read, and ordered to lie for consideration.

MONDAY, January 15.

The Senate resumed the third reading of the bill authorizing the fitting out, officering, and manning, the frigates belonging to the United States. And, on motion by Mr. GILES, the bill was re-committed to the original committee, further to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the bill for the relief of Daniel Boone. And, on motion by Mr. BRADLEY, it was agreed that the further consideration thereof be postponed to Tuesday next.

TUESDAY, January 16.

Mr. BRADLEY, from the committee to whom was referred the Message of the President of the United States, of the 3d instant, reported, in part, a bill to engage a corps of volunteers, for a short period, in the service of the United States; which was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the second reading of the bill to incorporate a company for making certain turnpike roads in the District of Columbia; and, after progress, the further consideration thereof was postponed until to-morrow.

WEDNESDAY, January 17.

The PRESIDENT communicated the report of the Secretary of War, in compliance with the fifth section of the "Act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes," and the report was read, and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the second reading of the bill to incorporate a company for making certain turnpike roads in the District of Columbia. And, on motion by Mr. SMITH, of Maryland, the bill was re-committed to a select committee, to consider and report thereon. Messrs. SMITH of Maryland, BRENT, GOODRICH, BRADLEY, and GAILLARD, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill authorizing the fitting out, officering, and manning, the frigates belonging to the United States, together with the amendment yesterday reported thereon. And the PRESIDENT having reported the bill to the House amended, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

VOLUNTEER CORPS.

The bill to engage a corps of volunteers, for a short period, in the service of the United States, was read the second time; and the further consideration thereof was made the order of the day for Monday next.

[By this bill, the President of the United States is authorized to engage in the service of the United States, for one year, the following military force, to be engaged as volunteer companies:

From Vermont 20 companies, New Hampshire 20,

JANUARY, 1810.

Proceedings.

SENATE.

Massachusetts 40, Rhode Island 10, Connecticut 20, New York 40, New Jersey 20, Pennsylvania 40, Delaware 10, Maryland 30, Virginia 50, North Carolina 30, South Carolina 30, Georgia 20, Tennessee 20, Kentucky 30, and from Ohio 10 companies; each to consist of one captain, one lieutenant, one ensign, four sergeants, four corporals, two musicians, and not less than forty nor more than sixty privates. One inspector to be appointed for each State, from the officers of the Army now in service, whose duty it shall be to repair to the State for which he is appointed, and receive the written engagement of the companies, &c. The corps of volunteers to be liable, during the period for which they are engaged, to be ordered into actual service by the President of the United States, and, whilst in service, to be entitled to the same pay, rations, forage, and emolument, of every kind, (bounty and clothing excepted,) with the regular troops of the United States. When these volunteer corps shall be engaged, mustered, and accepted by the President, they shall be entitled to the following bounties: To each commissioned officer, one month's pay; to each non-commissioned officer, musician, and private, of such companies who are dressed in complete uniform, and armed and equipped fit for service in the field, twenty-five dollars; to each private, &c., in complete uniform, and not armed, fifteen dollars, and one musket and bayonet, and one cartridge-box. The corps to be formed into regiments, consisting of ten companies each, from the same State—one colonel or lieutenant colonel, and two majors, to each regiment, to be selected by the President of the United States. If a sufficient number to fill the quota from each State shall not engage by the — day of —, the President is to accept so many supernumerary companies from the State nearest to it as may be necessary to supply the deficiency; but, when more companies shall engage than the quota required, those whose written engagements were first received shall be accepted in preference. The office of inspector of volunteers to be discontinued from and after the — day of —, and the officers appointed shall return home; or sooner, if the President shall think proper. A sum of — dollars is proposed to be appropriated to carry the plan into effect.]

THURSDAY, January 18.

Mr. GILMAN, from the committee, reported that they had examined and found correctly engrossed the bill authorizing the fitting out, officering, and manning, the frigates belonging to the United States; and the bill was read the third time, and the blanks having been filled, as follows:

The 1st with the word "four."

2d. With the word "four."

3d. With the word "fourteen."

4th. With the words "two years."

5th. With the words "six hundred thousand dollars."

On motion, by Mr. CRAWFORD, it was agreed that the question on the final passage of the bill be postponed until to-morrow.

The bill to augment the compensation to the judges of the circuit court of the District of Columbia was read the second time; and, on motion by Mr. BRADLEY, it was agreed that the consideration thereof be the order of the day for Tuesday next.

The Senate resumed, as in Committee of the Whole, the bill for the relief of Daniel Boone; and, on motion by Mr. BRADLEY, the further consideration thereof was postponed to the first Monday in December next.

Mr. REED submitted the following resolution for an amendment of the Constitution; which was read for consideration:

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, That the following section be submitted to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid and binding as a part of the Constitution of the United States:

"If any citizen of the United States shall accept of any title of nobility from any King, Prince, or foreign State, such citizen shall thenceforth be incapable of holding any office of honor or profit under the United States."

Mr. POPE, from the committee to whom was referred, on the 8th instant, the bill for the improvement of the United States by public roads and canals, reported the bill amended; and the bill was read accordingly.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Harry Caldwell and Amasa Jackson, Jeremiah Reynolds, and Levin Jones;" also, a bill, entitled "An act for the relief of John N. Stout;" and a bill, entitled "An act to authorize the removal of slaves from one part of the District of Columbia to another;" in which several bills they request the concurrence of the Senate.

The bills last mentioned were read, and passed to the second reading.

FRIDAY, January 19.

The bill, entitled "An act for the relief of Harry Caldwell and Amasa Jackson, Jeremiah Reynolds, and Levin Jones," was read the second time; and referred to a select committee, to consider and report thereon, and Messrs. SMITH, of Maryland, POPE, and BRADLEY, were appointed the committee.

Mr. SMITH, of Maryland, presented the petition of Levin Jones, of the city of Baltimore, stating that he is owner and master of the schooner Wolf, which vessel was seized some time in October last at Norfolk, in Virginia, for having brought certain French slaves to that place without previously complying with the requisites enjoined by law, and praying relief; and the petition was read, and referred to the committee last mentioned.

The bill, entitled "An act for the relief of John N. Stout," was read the second time; and referred to a select committee to consider and report thereon; and Messrs. POPE, GOODRICH, and FRANKLIN, were appointed the committee.

The bill, entitled "An act to authorize the removal of slaves from one part of the District of Columbia to another," was read the second time;

SENATE.

Naval Armament.

JANUARY, 1810.

and referred to a select committee, to consider and report thereon. Messrs. GILES, REED, and BRADLEY, were appointed the committee.

The Senate resumed the bill authorizing the fitting out, officering, and manning, the frigates belonging to the United States; and the consideration thereof was postponed until Monday next; and

Ordered, That the letters from the committee to the Secretary of the Navy on this subject, together with his replies thereto, be printed for the use of the Senate.

The Senate resumed the motion submitted yesterday for an amendment to the Constitution of the United States; and, on motion by Mr. REED, it was agreed that the consideration thereof be the order of the day for Wednesday next.

The Senate resumed, as in Committee of the Whole, the bill authorizing a subscription on behalf of the United States to the capital stock of the Chesapeake, and Delaware, and Ohio Canal Companies, as amended; and, on motion by Mr. LLOYD, it was agreed that the further consideration thereof be postponed to the first Monday in February next.

MONDAY, January 22.

The Senate resumed, as in Committee of the Whole, the bill to engage a corps of volunteers for a short period in the service of the United States; and, after progress, it was agreed that the further consideration thereof be postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of

Representatives of the United States:

I now transmit to Congress an account of the contingent expenses of the Government for the year 1809.

JAMES MADISON.

JANUARY 22, 1810.

The Message and account were read, and then ordered to lie for consideration.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to the Senate a report of the Secretary of the Treasury, complying with their resolution of the 27th of December, on the subject of disbursements in the intercourse with the Barbary Powers.

JANUARY 22, 1810.

JAMES MADISON.

The Message and report were read, and ordered to be printed for the use of the Senate.

Mr. ANDERSON presented the petition of the clerks in the Treasury Department, stating that the provision made by law for clerk-hire in that department is less in proportion than that made for other accounting officers, praying an investigation into their duties, and to be placed in situations equally eligible with those of the gentlemen belonging to the other departments; and the petition was read, and referred to a select committee, to consider and report thereon; and Messrs. ANDERSON, GREGG, and BRENT, were appointed the committee.

TUESDAY, January 23.

NAVAL ARMAMENT.

The Senate resumed the third reading of the bill authorizing the fitting out, officering, and manning, the frigates belonging to the United States.

On motion of Mr. BRADLEY, to postpone the consideration of the bill to Monday next, the Senate was divided, 13 in the affirmative and 13 in the negative, and the President determined the question in the negative.

On motion, by Mr. ANDERSON, to postpone the consideration of the bill to the second Monday in February next, it was determined in the negative—yeas 13, nays 18, as follows:

YAYS—Messrs. Anderson, Bradley, Campbell, Condit, Crawford, Franklin, Gregg, Lambert, Meigs, Robinson, Sumter, Turner and Whiteside.

NAYS—Messrs. Bayard, Brent, Champlin, Gaillard, German, Giles, Gilman, Goodrich, Hillhouse, Leib, Lloyd, Parker, Pickering, Pope, Reed, Smith of Maryland, Smith of New York, and Tait.

On the question, Shall this bill pass?

Mr. GILES observed that, from the papers presented by the committee to the Senate, and the explanations already given of them, he had hoped that the expediency of the measure proposed by the bill, would have been so obvious to every gentleman of the Senate, as to have relieved him from the necessity of making any further exposition in its favor. He said he felt himself perfectly exempt from the fashionable rage of debate, which he feared was extended so far as to tend, at least, to impede the necessary operations of the Government, if not to paralyze all its energies; and he regretted now to be placed under an obligation of extending or participating in its influence. But, as gentlemen had called on him for further expositions of the inducements of the committee for reporting the bill, he would attempt to state them as briefly as possible; and he begged to be excused for confining himself to general observations, without descending to very minute details.

Mr. G. said the bill under consideration grew out of the President's Message of the 3d instant. In that Message, the President recommends a system of preparatory measures to meet any exigencies that may await this country; of which system, the measure proposed by the bill forms one essential part. The President commences, by reminding Congress that the law authorizing a detachment of one hundred thousand men from the militia, will expire on the 30th of March next, and recommends its continuance for a longer period. A bill to that effect would long since have been reported by the committee, but a committee of the House of Representatives had anticipated them in the report, and it was thought unnecessary to bring the same subject before the Senate at the same time. The President then recommends a military force of twenty thousand men, to be raised and placed in a state of readiness, to be called into service at the shortest warning. Some difference of opinion existed as to the par-

JANUARY, 1810.

Naval Armament.

SENATE.

ticular description of force intended by the Message; but a majority of the committee thought that the call of the President would best be answered by the bill reported by the honorable gentleman from Vermont, (Mr. BRADLEY,) and which was yesterday under consideration. The President then proceeds in the following words:

"It will rest with them, (Congress,) also, to determine how far further provision may be expedient, for putting into actual service, if necessary, any part of the naval armament not now employed.

"At a period presenting features in the conduct of foreign Powers towards the United States, which impose on them the necessity of precautionary measures involving expense, it is a happy consideration that such is the solid state of the public credit, that reliance can be justly placed on any legal provision that may be made for resorting to it, in a convenient form, and to an adequate amount."

From this recommendation, as well as from the papers and other information obtained from the Navy Department in relation to this subject, the measure was addressed to the committee by two obvious and powerful considerations.

The one, to preserve the frigates proposed to be repaired from entire destruction.

The other, to employ them as instruments of protection and defence in the event of war, &c.

With respect to the first object, it is to be remarked, the Secretary of the Navy informs you—and this information, he believed, founded upon an actual examination of the vessels—that they required material repairs, that they would probably be damaged thirty per cent. by delaying the repairs for one year, and shortly thereafter, be totally unworthy of repair. That the present cost of repairs would be about equal to one-half of the original cost of new vessels; and that, when repaired, they would be better vessels than could be built of green timber. That the repairs of the whole of them could be completed by next Fall, if the work was all to be done at this place. Whereas, to fell timber for new frigates, and to complete them out of timber now to be procured, would require two or three years, &c.

Under these circumstances, the committee were left to the alternative, either of giving up these frigates to entire waste and destruction, or to substitute new ones in their stead, under all the disadvantages of increased expense, delay in time, and the inconvenience of building them of unseasoned timber, &c.; or to provide for repairing the frigates now in being, as contemplated in the bill. They preferred the last alternative; and, surely, it is recommended by every consideration of economy in expense, economy in time, and the superior quality of the vessels when completed, &c.

Mr. G. said, he knew there were gentlemen who thought that it would be better policy to let these frigates go to destruction altogether; and that the money expended upon their repair was money thrown away, or worse, as involving consequential expenses, &c.; and that imputations had been thrown out against those who now favored naval establishments even to a very limited extent, and who formerly opposed them. He had

reason to believe, also, that these imputations, however unmerited, had not been altogether without their effect.

He would, therefore, endeavor to put this subject in its true point of view, by bestowing a few observations on it.

In the first place, he would call to the recollection of gentlemen, for they appear to have forgotten or overlooked the circumstance, that the present Naval Establishment was fixed in the years 1800 and 1801, under the Administration of Mr. Jefferson, with the approbation and consent of himself, and, he believed, of every other Republican then in Congress. That, at that time, the establishment was thought a proper and reasonable one; and that, after completing the frigates now proposed to be repaired, the establishment will then be less by three frigates, than was thought proper and reasonable by the Republicans at that time. He asked, what circumstances had taken place since 1800 and 1801, to justify a further extension of the Naval Establishment, or with what propriety can those who then consented to that establishment be accused of inconsistency of conduct, or change of political principles, for consenting to an establishment now, less by three frigates, than they then thought both reasonable and proper?

Since that time, the United States have been blessed with a vast increase of population, a vast increase of wealth, particularly mercantile wealth, and increase of revenue, &c. At the same time, with an unexampled diminution of public debt, and, withal, they have, in the meantime, had their rights, commercial rights particularly, assailed by both the great belligerents of Europe, without any prospects of relaxation from either. He asked whether they could find, in any of these circumstances, causes to justify, at the present moment, dismantling their Navy, or cutting off or unnerving the naval arm of their Government? He presumed the whole of them would naturally produce a contrary tendency. He said, these imputations had been thrown out by some gentlemen, for whom he had the highest respect, and, he believed, with the most candid, though mistaken, convictions on their minds; but their errors would be easily corrected by an attentive review of the events which preceded the causes which produced, and the events which followed the change of Administration in 1800. During the Federal Administration, the Federal party conceived the erroneous opinion, and acted under the mistaken impression, that the Constitution of the United States wanted energy; and to supply this want, they undertook to legislate energy into it. For this purpose, they devised expedients to justify it, and resorted to physical force, armies and navies, to supply this misconceived fatal defect in the Constitution, and to form the essential substitute for energy; which was, in their view, the great desideratum of the Government.

These measures required enormous expenses; taxes were imposed on the people to defray them; and when they were informed that these expenses were intended to procure energy, they did not

believe that they were in want of any such energy. They found their rulers were acting under a mistaken vision; that they had departed from the necessary practical objects of the Government, and gone in quest of visionary theories, which existed only in their own deluded imaginations, which could be of no practical use to the people, and which cost them vast sums of money, &c. They therefore took the Government out of Federal hands, and put it into the hands of their opponents—the Republican party. The visionary theory of energy was, therefore, the fatal error of the Federal party; and that error deprived it of the power of the nation. The Government being thus placed in the hands of the Republicans, whilst heated with the zeal of opposition to the Federal doctrines, and flushed with their recent triumph, it was natural for them, with the best intentions, to run into the opposite extreme; to go too far in the relaxations of the powers of the Government, and to indulge themselves in the delightful visions of extending the range of individual liberty. They were, therefore, in danger of relaxing the powers of the Government so far as to deprive it of the means of its own preservation and execution for domestic objects, and impair or destroy its efficacy in resisting foreign aggressions. The theory, therefore, of the Republicans, as opposed to that of the Federalists, was the relaxation of governmental restraints, or the extension of individual liberty. It was natural that, in the vibration of the political pendulum, it should go from one extreme to another; and that this has been too much the case with the Republican Administration, he regretted to say, he feared, would be demonstrated by a very superficial review of the events of the last two or three years. He said it had been his fortune to oppose both of these extremes; that he thought the true policy of the United States would be found in the medium between these two extremes; that he had steadfastly placed his footing on that ground; and that he should not be driven from it, until he was convinced he had assumed an unwise position. He said he was equally averse from incurring expense, or devising expedients, merely to procure ideal energy for the Government; and from an undue relaxation of its powers, stimulated by a visionary philanthropy, in a vain pursuit of the extension of individual liberty beyond the susceptibility of human nature; or, in other words, irreconcilable with the imperfections of the human character. He always had been, and still was, willing, to call into action the whole Constitutional powers of the Government, for the purpose of effecting all its practicable, legitimate, and expedient objects, whether of a foreign or domestic character. And he believed the Government had powers sufficient for all its objects, if wisely and efficiently applied. He said, if any example were wanted to illustrate the truth and correctness of these observations, it would be found in the case under consideration: In the objections to a Naval Establishment at this time, less by three frigates than was deemed reasonable in 1800 and 1801; and in the intimated

inconsistency in the conduct of those who then approved that establishment, and who now approve of one of less extent. Perhaps the truth is, that gentlemen have gone so far in the pleasing and laudable effort to improve the happiness of man, by extending the scope of individual liberty, that they suppose those who stand still are receding from them in an opposite direction, while they are not sensible of their own motions. He said, under the view of this part of the subject, he would vote for the bill; and if circumstances should, in his judgment, hereafter render it expedient, he would vote for a still further extension of naval equipments. He said there was no danger, in his judgment, in having a navy in this country beyond a very limited extent; because the agricultural and mechanical interests were greatly superior to the commercial; and they would always afford a complete security against a too great extension of a navy.

Mr. G. said the second consideration which induced the committee to report the bill, was to employ the frigates as instruments of protection and defence, and even of annoyance, in the event of war. Gentlemen have asked whether the whole of the frigates are competent to resist the British fleet, or even a small squadron of it? To which it is answered, no, they are not. But it by no means follows, that because they are incompetent to achieve that splendid exploit, that, therefore, they cannot be of any use at all. He conceived they might be materially useful in defending a town in case of a naval attack. They would form an essential part of a combined force for that object. Fortifications on land have been erected at an immense expense, gunboats have been provided for the defence of the seaport towns, &c., and frigates are in many respects essential to their combined operation. They are, besides, important in furnishing officers and men for the gunboats, &c.; and it has always been understood that their operations must be incomplete without the operations of vessels of war. He therefore considered it incorrect to single out this particular part of the naval force, and to ask what it can achieve singly and alone. It would be more just and proper to consider it as part of a combined system of force. In that point of view, he believed it would not be inefficient. He believed they might also be occasionally employed in harassing the commerce of an enemy with considerable effect, particularly if Great Britain should be that enemy.

Mr. G. said he should avail himself of that occasion to be explicit in stating his views of the question of peace or war. He was induced to do this because his views upon that question had been misunderstood, or at least misrepresented to the public, and pretended to be derived from conversations and other sources of information easily to be misconceived, and more easily to be misrepresented, and for which he did not feel himself at all responsible. He had always been in the habit of frankly exposing his views without reserve, in his place on that floor, upon all subjects, when required by the duties of his station; he should now

JANUARY, 1810.

Naval Armament.

SENATE.

do so, and for their correctness in that place he acknowledged himself to be responsible to the public.

He said, with respect to peace or war, it should be observed, that in a dispute between nations, war was at the option of either party—peace was not; peace required the consent of both. Whilst, therefore, war may be in our power, peace may be beyond our control. Great Britain may make war upon us, and it is our most imperious duty to be prepared to meet it. He said, as to the probability of that event, he had no certain data to guide his judgment; but if it be even uncertain, preparations ought to be made to meet it with effect and advantage. He was, therefore, in favor of every preparation, both by land and by sea, to meet war; but he considered the question of making preparations to meet war a very different thing from a question to declare or to make war; so much so, that resorting to the one has always been considered as the best expedient to avoid the other alternative; whilst, therefore, he was against declaring for making war under present circumstances, and at this time, he was in favor of preparations to meet it, which might hereafter render a resort to it unnecessary. But he would at the same time say, explicitly, that if Great Britain would continue her course of hostility against us, he would, at a convenient and proper time, be decidedly in favor of war, rather than submit to her lawless pretensions and aggressions. He believed that rather than submit, the United States ought, must, and will go to war for the preservation and maintenance of their rights, &c. He drew this conclusion with confidence and certainty from the character of the dispute between the two countries. What is the real character of that dispute, particularly as it respects commercial rights? Independently of aggressions vitally affecting the character and interests of the United States, continued without atonement or relaxation, and which are too well known to require repetition here, the real character of the dispute respecting commercial rights, when stripped of all its disguises and embellishments, consists in this: whether the United States or Great Britain shall regulate the commerce of the United States? Or, rather, whether the United States shall regulate their own commerce consistently with the law of nations? Or, shall Great Britain regulate it in contravention of the law of nations? The right to regulate commerce is, perhaps, the most important right confided to Congress under the Constitution; and that Congress might possess that power was certainly the primary inducement to the formation of the Constitution.

It is known that the inefficiency of the commercial regulations of the several States, and the extremely inconvenient influence of the conflicting systems of the different States upon each other, first suggested the necessity of a General Government, for the purpose of regulating commerce by one uniform and efficient system; of course the power to regulate commerce may be considered as the foundation of the Constitution itself. The people of the United States have

delegated a Congress charged with the sacred trust of protecting and exercising this great Constitutional power. How, then, can that Congress abandon it to the exercise of a foreign Power, without an almost treasonable infidelity to the people, by whom they are delegated? Great Britain not only claims, but actually exercises the power of regulating, and even of restraining and prohibiting your commerce at pleasure; and so far has she carried the exercise of this power as to substitute her own illicit commerce in the place of your lawful, but prohibited commerce! Yes, in utter contempt of your rights and authority, and in utter disregard of her own character, she is now in the daily habit of granting licenses to her own subjects to commit treason against the common law of the land, by authorizing them to carry on an illicit commerce with her enemy, in substitution of your lawful commerce. He believed it impossible for the United States to submit long to this unexampled state of things; and, therefore, that they ought, must, and will, ere long, go to war to assert and maintain their violated rights, their injured interests, &c., if no other expedient will answer the object.

Mr. G. said that this view of the subject was addressed with peculiar force to the commercial parts of the United States; and this state of things, if persevered in by Great Britain, must and will awaken them, in spite of all their prejudices, to a sense of their own danger and interest; and whenever that shall be the case, they must and will unite in measures of protection and redress.

Mr. G. said it was astonishing to him how gentlemen representing the commercial parts of the United States could ever, for a moment, suppose that himself, or the people in the scene of country from which he came, could desire to enter into an unnecessary war with Great Britain. That part of the country, above all others, found an interest in an intercourse with Great Britain, particularly at the present moment; the articles it furnished were, at this time, particularly suited to the British market. They were principally tobacco, flour, and wheat. The whole of which were now in brisk demand for the British market, particularly the best James river tobacco, which was so peculiarly suited to the market, as now to command from seven to nine dollars per cwt.; whereas Maryland tobacco, which was consumed in the prohibited markets of the Continent, was in little demand, and comparatively low in price. Indeed, from these causes, there has been a peculiar activity in the commercial scene in that part of the country for some months past; and gentlemen, who supposed him disposed to plunge into an unnecessary war with Great Britain, could not give him credit for even the most superficial consideration of his own interest, or the interest of that part of the country. But, notwithstanding these considerations, he was not willing himself, nor were the people of that part of the country willing to submit to the abandonment of a single attribute of national sovereignty; still less were they disposed to abandon the great Constitutional right in question.

Mr. G. said he thought war justifiable only in case of self-defence. That, as he had often done before on that floor, he now solemnly protested against war merely for the acquisition of territory, or any other object of aggrandizement or ambition. But what is a war of self-defence? When any attribute of national sovereignty whatever is attacked by a foreign Power, it then becomes a case of self-defence to the party attacked. In the case between the United States and Great Britain, not only is a national attribute assailed, but the highest national attribute sanctioned by the Constitution of the United States—the corner stone of the Constitution itself. This, then, is strictly a case of self-defence, aggravated with all the circumstances of a continued claim, and contemptuous insult. But, although he deemed a war purely defensive alone justifiable; yet he thought it perfectly correct to carry on such a war when undertaken offensively; and that it was perfectly justifiable to seize on territory, and appropriate it as a just retribution for the evils of war unjustly inflicted by the culpable assailant, or to resort to any other means of offensive annoyance whatever, &c. Under every view of this subject, therefore, he thought the measure contemplated by the bill recommended as one part of a system of preparations for war.

Mr. G. said he would now bestow some observations on the objection of expense. This point afforded an argument always powerful, and for some years past irresistible. It is said \$600,000, the contemplated expense for equipping all the frigates, is enormous. He said it was so; and no gentleman regretted the necessity of incurring this and other similar expenses more than himself. But the correct and proper question is not—is this sum not erroneous? It is: how can it be avoided, and save the rights and interests of the nation? The real object of this expense is to save the United States against the rapacity and mad ambition of the rulers of other nations; and hence arises its indispensable necessity. It no doubt will appear wonderful to a speculative, philosophic mind, to contemplate the enormous expenses incurred by nations for the purpose of self-protection against the rapacity and ambition of the rulers of other nations. In this respect, however, the United States have been at all times peculiarly fortunate, compared with any other nation with which they have any intimate relations. Take Great Britain, for instance, and calculate the enormous expenses she incurs to protect herself from the ambition of her own and the rulers of other nations, and compare them with those incurred by the United States for the same object, and the latter would be to the former as a drop in the ocean. This would be the result in some degree in a comparison with any other nation. But the question is, whether it is not better to incur this expense, than to yield to the fatal influence of this unbounded rapacity and ambition? Independently of exchanging the attributes of freedom and independence for the degradation of slavery, would not this submission cost you more in money upon the most economical calcu-

lation? Could you purchase off its gripping influence for \$600,000? Would not your proud conqueror take all you had, and think he had left you too much, as long as you had a comfort remaining? The same speculative reflections may be applied to the enormous sums expended in the most perfect political associations for the protection of society against the violence and depravity of individuals. To count up all the costs expended, to protect the virtuous and the good against the violence and depravity of the vicious and the bad, would doubtless be a subject of wonder to a philosophic mind. Take the United States for example, and imagine all the costs of all the courts of criminal jurisdiction, the grand and petit juries, witnesses, &c., and add to them the costs of the dungeons, the jails, the bolts, the bars, the chains, &c., and the amount would be enormous; and if you should choose to indulge yourself in the speculation still further, count the costs of all the locks and keys in the United States, which would be useless if there were no such thing as human vice and depravity, and the mind would be left in a state of astonishment at the enormous result, at the immense sums necessarily expended for the protection of society against the baneful and destructive influence of human vices. But did ever any man doubt of the propriety of this expenditure? Did he ever pause and ask himself, whether these sums were not enormous? No; he knew they were great in themselves, but nothing compared with the object to be obtained by them; nothing compared with the preservation of society from the destructive influence of human violence and depravity. And is this result to be wondered at, when you reflect for a moment on the horrible effects of giving them the triumph, and yielding submission to their influence? The same observations will apply with greater force to the society of nations; the same injurious consequences would result from submission by one nation to the demands of the rapacious and ambitious rulers of another nation; he was therefore willing to resist and repel them when directed by any nation against the rights and interests of the United States, and for that purpose was willing to incur the proposed expense, or any other within the ability of the Government, rather than to yield submission to the destructive influence of these ambitious and rapacious demands.

Mr. G. said he could not help reminding gentlemen here of the unfortunate consequences of the successful influence of this argument of economy at no distant period. He feared that from the want of a timely expenditure of money, to enforce a great and wise measure of the Government, we were now reduced to our present embarrassed situation; and to be relieved from it might probably cost us much more money than was then necessary for the object; and in addition to this economical waste of treasure might also be a waste of blood.

Mr. G. then begged to present another aspect of the proposed measure to the view of the Senate. He said that the aggressions of the bellig-

JANUARY, 1810.

Naval Armament.

SENATE.

erents upon our rights and interests were so universally known and felt throughout the United States, that the people were almost universally looking up to Congress for some measures of preparation for meeting any crisis which may befall us. The present measure goes to put into a state of readiness for service all the naval force of the United States. It is therefore believed, that, in this respect, the measure would satisfy the just expectations of the people, and when combined with other preparatory measures contemplated for the land service, would afford such protection and security as would justify the confidence of the people in Congress. He said that the measure of the first importance, in his judgment, for this object, was a provision for procuring every species of munitions of war, to be deposited in convenient places of security near the various parts of the United States, most liable to sudden attacks from an enemy. This measure would probably shortly be brought forward by the committee on the President's Message. And if, in addition to this 20,000 men, either volunteers or regulars could be placed at the disposal of the President, with a power to call out 100,000 men from the militia, he thought the system would answer all existing exigencies, would place the nation in a respectable attitude, would do justice to the character of Congress, and insure the general confidence of the people.

Mr. CRAWFORD said, before he entered on the discussion of the bill, he felt it his duty to declare, that in the observations he had made upon the motion for postponement, he had not the most distant intention of intimating that the gentleman from Virginia wished to involve the nation in a war, that he did not conscientiously believe to be necessary for the preservation of the honor or interest of the country.

Mr. C. said that he had, by his own reflections, been led to conjecture that this additional naval force was intended to protect our commerce in time of peace, or to prepare the nation for a declaration of war, which we intend to issue, or expect to be issued against us, by one or both of the great belligerent nations. The observations of the gentleman from Virginia had satisfied him that his conjectures are well founded. These are the objects of this bill. But when a measure involving a considerable expense is under consideration, it is necessary and proper to inquire whether the means to be employed are adequate to the attainment of the object. The inadequacy of the naval force of the United States to the protection of its commerce, is so glaring as to strike the most superficial observer at the first blush. If every frigate, sloop, and bomb ketch, was a first rate ship-of-the-line, it would even then be wholly incompetent to that object. If the United States were to invest \$100,000,000 in vessels of war, and expend one fourth of that sum annually by employing it for the protection of our commerce, it would still be unprotected, or the nation involved in war. As this additional naval force is inadequate to the protection of our commerce, and has never been employed for that purpose, it

is but reasonable to suppose that it is intended to prepare the nation for a declaration of war, which we intend to issue against France or Great Britain. In the examination of this question we can only reason from analogy. From our past conduct, we may judge with some degree of correctness, what we shall do under similar circumstances. What was the situation of the United States in March last? The British Orders in Council of the 11th November, 1807, were then unmodified, and in full operation; every port in Europe which was shut against British vessels, was declared to be in a state of blockade; all vessels attempting to enter them were subject to capture and condemnation; the right to trade to those ports could not be exercised, until the neutral vessel had touched at a British port, and paid a transit duty, which, in some cases exceeded the original value of the cargo. Our commercial intercourse with France was not more auspicious. Our vessels and cargoes had been placed in a state of sequestration, with an intimation, that their final disposition would depend upon the course which this nation should adopt towards Great Britain. To relieve the nation from the pressure of these accumulated wrongs, the embargo was imposed—it was voluntarily submitted to for fourteen months, and was then abandoned in a panic. When this measure was repealed, did we declare war? Did we issue letters of marque and reprisal; or did the other House strike from the non-intercourse act, a provision which authorized the President to issue them upon a specified contingency? Sir, if this nation ever intended to declare war for any cause short of the invasion of its territory, or the bombardment of its cities, last March was the time which ought to have been seized for its commencement. We had cause, and more than cause for war, if war would have procured redress. Our ships were then in our own ports—our seamen were at home—the property of the nation had been gathered in from the four winds of heaven, and we were prepared to strike, where the enemy was vulnerable. We did not, however, declare war. Mr. C. said he was not convinced but that it is fortunate for the nation that we did not, although he thought and felt differently upon the repeal of the embargo. He was opposed to its repeal, but for war, when it was repealed. What, sir, is our situation now, when compared with March, 1809? The embargo, although vilified and abandoned here, proved efficacious. The arrangement of the 19th of April last was the offspring of the embargo. The abandonment of the embargo produced the disavowal of that arrangement. The order of the 26th of April, 1809, is still in force, and although it falls very short of the arrangement made at this place, yet it abandons the two most important and obnoxious principles of the orders of the 11th November, 1807. The transit duty is given up, and the blockade of commercial Europe is restrained to Holland, France, and the Kingdom of Italy. By this modification our trade to all the rest of the world is unmolested by British

Orders in Council. If the comparison between our present situation and that of March last, be fairly drawn, there can be no difficulty in deciding, that as we did not then declare war, we shall not do it now. But it will be said that, to all the injuries which Great Britain has committed against us, she has added the grossest insult. Mr. C. said that no man was more sensibly affected by the conduct of the British Minister towards this Government than he was. He felt compassion for those who could not, and contempt for those who would not, discover the insult.

But, sir, are we to merge the aggravated and accumulated wrongs of the nation, in the quarrel between the negotiators of the two countries? If we are to have war, will any rational man be willing to rest it on the insult offered by Jackson to the Government, instead of the long list of atrocious injuries, which we have suffered from the injustice and rapacity of Great Britain? Certainly not. But, waiving all the arguments against our declaring war, which may be drawn from our past conduct, Mr. C. said, he would ask this honorable body, whether the present situation of the world does not solemnly admonish this nation to stand aloof from the dreadful convulsions with which Europe for years past has been agitated to its centre? Yes, sir, the character of the war, and the principle upon which it is conducted, admonish us in the most solemn manner to remain quiet until its stormy billows shall subside into a calm. In the wars which were begun and carried on anterior to the French Revolution, the conquest of a town or province was generally the object and end of hostilities. Now, a battle decides the fate of a Kingdom; and the mightiest empires are overthrown in a single campaign. The change in nautical warfare has not been less than that upon land. Formerly, the capture or destruction of a small part of the adverse squadron, was esteemed a glorious victory. *Te Deum* was sung in their churches, or the Tower guns were fired. Now, if any part of the hostile fleet escapes, the victorious officer is punished. This contest, so sanguinary in its progress, and destructive in its consequences, must ere long be brought to an end. Let it then be the wisdom of this nation to remain at peace, as long as peace is within its option.

Having shown from our past conduct, that we do not mean to declare war, and also that sound policy forbids us to do it, it is necessary to inquire into the probability of its being declared against us. Will France declare war against the United States? In what relation do we stand to France? She captures and condemns all our vessels which have been visited by a British vessel, or are bound to a British port. Is this all? Does not France, under some pretext or other, sequester the most of our vessels which have the temerity to enter French ports? How would war affect this relation? It would put an end to sequestration, and would greatly diminish the number of captures, because our vessels in that case would arm in their defence. It is not the

interest of France to declare war against us—she will, therefore, avoid it. But, admitting that France should declare war—this additional naval force would be unnecessary, as long as England continues the war and preserves her naval superiority. If this should be lost, it is not upon a fleet of tenfold the efficient force of our whole Naval Establishment, that we must rely for defence against the Gallic legions of Napoleon. No, sir, we must rely upon our own internal strength, upon our union and patriotism, which will answer every demand that can be made upon it by the most trying emergency—the dreams of the timid, and the predictions of madmen, to the contrary notwithstanding.

But it is possible that Great Britain will declare war against us. Let us examine this subject. Has Great Britain any interest which can be subserved by war with the United States? Is the commerce of this country beneficial to her? She enjoys all of it which she wishes. She gets by purchase or capture all which she wants from us. For the first she pays a moderate price, and for the last she pays nothing. But what is of equal importance to her, we purchase her manufactures. In the full enjoyment of all the benefits of our commerce, she restrains her adversary from all participation with her in those benefits. But admitting there is danger of war with England, of what service will these few additional frigates be against the 1,000 ships of war which that nation can put in commission? The honorable chairman of the committee says, they will answer the twofold purpose of defending our ports and harbors, and of annoying the commerce of the enemy. To this it may be answered, that if they are kept in our ports for their defence, they cannot annoy the trade of the enemy. If they are sent out to prey upon the commerce of the enemy, but few, if any of them, will ever return to defend our ports.

The President's Message of the 3d instant has been introduced by the chairman of the committee in support of this bill. Feeble must be the aid which this measure can derive from that source. This Message, in point of obscurity, comes nearer my ideas of a Delphic oracle than any State paper which has come under my inspection. It is so cautiously expressed that every man puts what construction upon it he pleases. Is he for war? The Message breathes nothing but destruction and bloodshed. Is he for peace? The Message is mere milk-and-water, and wholly pacific. Is he for the bill before you? The Message calls for its passage. Is he a friend to a large standing army? Why then the Message means 20,000 regular troops. Is he friendly to the militia? The Message does not call for regular troops—it means militia. Thus, sir, this Message means anything or nothing, at the will of the commentator. If this Message is oracular in its meaning, it was no less miraculous in its promulgation. The newspapers to the east of this, stated that such a message would be delivered, and stated its contents nearly one week before it reached the two Houses of Congress. To

JANUARY, 1810.

Naval Armament.

SENATE.

account for this phenomenon, is neither within my power or province.

The gentleman from Virginia has reiterated the old maxim, "that to be prepared for war is the best method of preserving peace," and has declared that he should vote for this bill upon that principle. This maxim has the authority of great names. It may be true to a particular extent. If these preparations are of such a nature as to make the nation invulnerable, it is true. But, sir, when the preparations amount to the equipment of five frigates, and the nation against whom these preparations are made can launch a thousand vessels of war against us, who can seriously urge this maxim as a justification of the measure? It is in vain for us to contend upon the ocean with a nation who expends annually, more than \$300,000,000; a sum six times greater than the whole amount of our exports. The charge of inconsistency against those who oppose the passage of this bill, has been but feebly supported. By way of enforcing this charge, we are told that when this Government was in the hands of Federal gentlemen they fancied it was too weak, and attempted to legislate energy into it, by creating a navy and increasing the standing army. The people could not be made to feel or perceive this want of energy, and turned them out of power. The Republicans, says the gentleman, who succeeded them, like the pendulum of a clock, very naturally vibrated to the other extreme, and have nearly succeeded in legislating energy out of the Government. That he was opposed to both extremes. Sir, it is not for me to decide whether the gentleman from Virginia has alone been consistent, while the rest of his friends have vibrated from one extreme to the other. The gentleman is certainly incorrect, when he says, the Naval Establishment was reduced, and fixed upon its present footing by a Republican Administration. The Navy, which was created by a Federal Administration, was by that Administration reduced to what they called a Peace Establishment. In this situation it was found by the late Administration; who, so far from running into the extreme, stopped short in the salutary work of reform. It will be recollected that at the downfall of the Federal Administration, the most gloomy predictions were uttered by the advocates of a sinking cause—everything sacred—everything venerable—everything in fact which links and binds society together, was, according to Federal declaration, to be trodden under foot, and torn asunder by their successors, whom they branded with the odious epithet of Jacobins. Unfortunately for the cause of reformation, at this precise time, the hopes of the philanthropist and patriot were blasted in France. The blind fury of their unprincipled demagogues, their jacobinical leaders, and the specious pretext of reform, had trampled upon every institution in that country, which was held dear by the people, and the last ray of hope, that rational liberty would be established in that nation, had perished forever. Under these circumstances the new Administration, cautiously guarding against the charge of innovation, stopped

short of their duty. They ought to have amputated this fungus of the body politic, and restored it to a sound and healthy state. This was not done, and the nation has consequently spent about \$12,000,000 upon it. But we are informed that the Navy in 1800-1, was larger than it now is, although our revenue was then inferior to what it is now. If we refuse now to put in commission and service all the vessels which were not sold in 1800-1, we stand convicted of inconsistency. But, sir, is the revenue greater now than at that period, or has the whole of the public vessels then retained, ever been put in service, from that year until the present time? Let the records of the nation decide. At that time the Secretary of the Navy, according to my information, consented to manage the Naval Establishment with \$900,000, and upon that consent the internal taxes were repealed. If we are at liberty to contrast the expenses of the Navy of any two years by way of establishing the charge of inconsistency, let us take the present and last year. Did we call into service the whole of the Navy last year? Is the necessity for this measure stronger now than at that time? No man will venture the assertion. The expenditure of the Navy was last year \$2,379,267 and if this bill passes, it will rise this year to \$3,500,000. The gentleman from Maryland (Mr. S. SMITH) has no apprehension of war, and yet votes for the bill upon principles of economy—but he is only for repairing the vessels, and not for employing them, while the gentleman from Virginia intends to repair and employ them. One gentleman says, the sum appropriated includes not only repairs, but rigging, &c., and the other says, that the sum is more than sufficient. The report of the Secretary of the Navy proves that this sum is for repairs only—and another report shows that \$150,000 were last year transferred from the article of provisions, to the article of repairs. If the same thing does not happen in the present case, it ought to excite surprise.

We were told the other day, by the gentleman from Connecticut, (Mr. HILLHOUSE,) that he hoped this bill would receive a unanimous vote. The same gentleman objects to the expense of the bill for the organizing twenty thousand volunteer militia. This expense will not exceed \$500,000, while the frigates, the object of his affection, will cost more than double that sum. To use his own expression in relation to the volunteers, a high-sounding measure might receive my vote, if it was not an expensive one; but \$1,200,000 or \$1,500,000 is too large a sum to throw away in vaporings, in the present exhausted state of the Treasury. The gentleman from Connecticut and his friends are acting consistently in supporting this bill. They are supporting a system which owes its birth to them. They believed, and no doubt honestly, that a Government which relied for support only on the utility of its measures, would be weak and inefficient. They endeavored to strengthen it by creating a system of patronage, and for that purpose the Navy was built, and for that purpose, and that alone, is it calculated. But the time when this Navy was built, and the

purposes for which it was ostensibly destined, enabled them to reason more plausibly in its favor than we can for the additional expense called for by this bill. They intended to employ it against France, where it would be efficient to a particular extent. We intend to employ ours, if it is to be employed at all, against Great Britain, where it will be inefficient, and worse than inefficient.

But, sir, our naval force is not to be employed at all, if the two positions attempted to be established in my previous observations, be correct. If we do not intend to declare war, nor expect it to be declared against us, what apology have we for incurring this enormous expense? What apology have we to embark in war expenses, when we intend, and expect to be at peace? Gentlemen who think with me, who believe that we shall not have war, and that, so far as depends upon our own actions, we ought not to have it, will do well to reflect that when our fleets are equipped, and armies raised, we must employ them—we must go to war to justify ourselves to the nation for the exorbitant expenses which have been incurred by these means.

Mr. C. said that the observations he had made as to the expense of this equipment, rested upon the supposition that we are not to have war. In this supposition the gentleman from Virginia acquiesces, at least to a particular extent. If the nation should unfortunately be involved in war, it ought to be prosecuted with vigor, as well offensively as defensively. The energies and resources of the nation ought to be put in a state of requisition; but, until this event should happen, he was opposed to measures which exhausted the Treasury without adding to the real and substantial defence of the nation.

The question was taken on the passage of the bill, and determined in the affirmative—yeas 25, nays 6, as follows:

YEAS—Messrs. Bayard, Bradley, Brent, Champlin, Franklin, Gaillard, German, Giles, Gilman, Goodrich, Gregg, Hillhouse, Leib, Lloyd, Meigs, Parker, Pickering, Pope, Reed, Robinson, Smith of Maryland, Smith of New York, Sumter, Tait, and Whiteside.

NAYS—Messrs. Anderson, Campbell, Condit, Crawford, Lambert, and Turner.

So it was *Resolved*, That this bill pass, and that the title thereof be "An act authorizing the fitting out, officering, and manning the frigates belonging to the United States."

WEDNESDAY, January 24.

The Senate resumed, as in Committee of the Whole, the bill to augment the compensation to the judges of the circuit court of the District of Columbia; and, after debate, on motion, by Mr. POPE, the further consideration thereof was postponed to the first Monday in December next.

The Senate resumed the motion submitted on the 18th instant, for an amendment to the Constitution; and on motion, by Mr. LEIB, it was referred to a select committee, to consider and report thereon; and Messrs. REED, LEIB, and CRAWFORD, were appointed the committee.

The PRESIDENT communicated a letter signed James Sykes, Speaker of the Senate of the State of Delaware, enclosing a certificate of the appointment of OUTERBRIDGE HORSEY, a Senator of the United States, in the place of Samuel White, deceased; and the certificate was read, and ordered to lie on file.

THURSDAY, January 25.

The PRESIDENT communicated a report from the Secretary of the Treasury on the moneys expended during the year 1809, for the discharge of miscellaneous claims not otherwise provided for, and paid at the Treasury; also, a statement of all the contracts made during the same year, by, or under the direction of, the Secretary of the Treasury; together with a copy of the contract made, with the approbation of the Secretary of the Treasury, by the collector for the port of Boston and Charlestown, for building a custom-house in that port; which were read, and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the bill to engage a corps of volunteers for a short period in the service of the United States; and, on motion by Mr. LEIB, it was agreed that the further consideration thereof be postponed until Monday next.

FRIDAY, January 26.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act for the relief of Harry Caldwell and Amasa Jackson, Jeremiah Reynolds and Levin Jones," reported it without amendment; and the bill was considered as in Committee of the Whole, and amended; and the President having reported it to the House accordingly, the bill was ordered to the third reading as amended.

Mr. MEIGS, from the committee to whom the subject was referred, reported a bill granting the right of pre-emption to purchasers of public lands in certain cases; and the bill was read and passed to the second reading.

MONDAY, January 29.

OUTERBRIDGE HORSEY, appointed a Senator by the Legislature of the State of Delaware, in the place of Samuel White, deceased, attended, and the oath prescribed by law was administered to him, and he took his seat in the Senate.

Mr. GILMAN, from the committee, reported the amendment to the bill, entitled "An act for the relief of Harry Caldwell and Amasa Jackson, Jeremiah Reynolds and Levin Jones," correctly engrossed; and the bill was read the third time as amended, and passed.

The bill granting a right of pre-emption to purchasers of public lands, in certain cases, was read the second time.

The Senate resumed, as in Committee of the Whole, the bill to engage a corps of volunteers, for a short period, in the service of the United States: and, on motion by Mr. BRADLEY, it was

JANUARY, 1810.

Proceedings.

SENATE.

agreed that the consideration thereof be further postponed.

Mr. CAMPBELL presented the petition of a number of the inhabitants of the State of Ohio, signed John Short and others, praying an alteration of the law regulating the sales of public lands, for reasons stated in the petition; and the petition was read, and ordered to lie for consideration.

The PRESIDENT communicated a report of the Secretary of the Treasury, prepared in obedience to the provisions of the act, entitled "An act to regulate and fix the compensations of clerks, and to authorize the laying out certain public roads, and for other purposes;" which was read, and ordered to lie for consideration.

Mr. BAYARD gave notice that to-morrow he should ask leave to bring in a bill relative to the district court of the United States established in the Territory of Orleans.

Mr. REED, from the committee to whom was referred, on the 24th instant, the resolution for an amendment to the Constitution of the United States, reported the same with amendments; which were read for consideration. The resolution as amended is as follows:

"If any citizen of the United States shall accept of any title of nobility, or of any other title of distinction, from any Emperor, King, Prince, Potentate, or foreign State, or shall hold the same by descent, or shall intermarry with any descendant of any Emperor, King, or Prince, or with any person of the blood royal, such citizen shall thenceforth be incapable of exercising or enjoying any of the rights and immunities of a free citizen of the United States or of the individual States; and shall also be incapable of holding any office of honor, profit, or trust, under them, or either of them."

TUESDAY, January 30.

Mr. GILES, from the committee to whom was referred the bill, entitled "An act to authorize the removal of slaves from one part of the District of Columbia to another," reported the bill without amendment.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act to extend certain privileges therein mentioned to Joseph Joshua Dyster," with amendments; in which they request the concurrence of the Senate. The House of Representatives have passed a bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes;" a bill, entitled "An act authorizing the discharge of William Hawkins from his imprisonment;" and a bill, entitled "An act for the relief of Jared Shattuck;" also, a bill, entitled "An act for the appointment of an additional judge, and extending the right of suffrage to the citizens of Madison county, in the Mississippi Territory;" in which several bills they request the concurrence of the Senate.

The bills last brought up for concurrence were read, and passed to a second reading.

The Senate resumed, as in Committee of the Whole, the bill to engage a corps of volunteers,

for a short period, in the service of the United States; and, after debate, the further consideration of the bill was postponed until to-morrow.

Mr. PICKERING submitted the following resolution:

Resolved, That the President of the United States be requested to lay before the Senate the information which will exhibit those features in the conduct of foreign Powers towards the United States, referred to in his Message of the 3d instant, which impose on them the necessity of the precautionary measures recommended in that Message, of providing, by law, for detaching one hundred thousand of the militia, and for raising a force of twenty thousand volunteers.

WEDNESDAY, January 31.

Mr. BAYARD asked and obtained leave to bring in a bill relative to the district court of the United States established in the Territory of Orleans; and the bill was read, and passed to the second reading.

The bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. SMITH, of Maryland, CRAWFORD, GILES, FRANKLIN, and HILLHOUSE, were appointed the committee.

The bill, entitled "An act for the relief of Jared Shattuck," was read the second time, and referred to a select committee to consider and report thereon; and Messrs. GREGG, BRADLEY, and FRANKLIN, were appointed the committee.

The bill, entitled "An act authorizing the discharge of William Hawkins from his imprisonment," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. GREGG, BRADLEY, and MATHEWSON, were appointed the committee.

Mr. POPE, from the committee to whom was referred the bill, entitled "An act for the relief of John N. Stout," reported the bill without amendment.

The bill, entitled "An act for the appointment of an additional judge, and extending the right of suffrage to the citizens of Madison county, in the Mississippi Territory," was read the second time; and referred to a select committee, to consider and report thereon; and Messrs. CRAWFORD, WHITESIDE, and LEIB, were appointed the committee.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to extend certain privileges therein mentioned to Joseph Joshua Dyster," and concurred therein.

Mr. GERMAN submitted the following resolutions for consideration:

Resolved, That provision be made by law for protecting and defending, by convoy, the ships and vessels belonging to citizens of the United States loaded with articles of the growth, produce, or manufacture, of the United States, or Territories thereof, not contraband of war, bound to any foreign port or place to which the

SENATE.

Proceedings.

FEBRUARY, 1810.

ships and vessels of the United States are not excluded by municipal regulations, and not being actually blockaded by an armed force.

Resolved, That the citizens of the United States, who shall put their ships or vessels under protection of convoy of an armed vessel or vessels, as aforesaid, shall be permitted to arm in their defence.

The Senate resumed, as in Committee of the Whole, the bill to engage a corps of volunteers for a short period, in the service of the United States; and, on motion by Mr. BAYARD, it was agreed to postpone the bill, for the purpose of considering the motion made yesterday on the subject; and the motion was amended as follows:

Resolved, That the President of the United States be requested to lay before the Senate any information he possesses, rendering it necessary or prudent on the part of the United States to augment its military force.

And, on the question to agree to the motion as amended, it was determined in the negative—yeas 7, nays 24, as follows:

YEAS—Messrs. Bayard, Champlin, Goodrich, Hillhouse, Horsey, Pickering, and Reed.

NAYS—Messrs. Anderson, Bradley, Brent, Campbell, Condit, Crawford, Franklin, Gaillard, German, Giles, Gilman, Gregg, Lambert, Leib, Mathewson, Meigs, Parker, Pope, Robinson, Smith of Maryland, Smith of New York, Sumter, Turner, and Whiteside.

And the consideration of the bill last mentioned was resumed, as in Committee of the Whole; and, after progress, the Senate adjourned.

THURSDAY, February 1.

The PRESIDENT communicated a letter from the Governor of the State of Kentucky, enclosing a certificate of the appointment of HENRY CLAY a Senator of the United States, in place of Buckner Thruston, resigned. And the certificate was read, and ordered to lie on file.

The bill relative to the district court of the United States established in the Territory of Orleans, was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BAYARD, CRAWFORD, and BRADLEY, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill to engage a corps of volunteers, for a short period, in the service of the United States; and, after progress, adjourned.

FRIDAY, February 2.

The PRESIDENT communicated the report of the Postmaster General, prepared in obedience to the provisions of the act passed 21st April, 1806, entitled "An act to regulate and fix the compensations of clerks, and to authorize the laying out certain public roads, and for other purposes;" which was read, and ordered to lie for consideration.

Mr. ANDERSON presented the petition of a number of citizens of Washington county, in the District of Columbia, signed Walter Jones and others, praying that provision may be made for the establishment of a penitentiary system, for rea-

sons stated at large in the petition. He also presented the representation of the grand jury of said county, together with the representation of the justices of the circuit court on the same subject, which were read, and referred to a select committee, to consider and report thereon; and Messrs. ANDERSON, MATHEWSON, and CRAWFORD, were appointed the committee.

Mr. ANDERSON presented the petition of Thos. Beall, of Georgetown, and others; also, the petition of William Marbury and others, inhabitants of the county of Washington, in the District of Columbia, praying that the sixth section of the act, entitled "An act supplementary to the act to incorporate the inhabitants of the City of Washington, in the District of Columbia," which exempts the City of Washington from taxation by the levy court of Washington county, be repealed, for reasons mentioned in the petitions, or that such laws may pass as may redress the grievances complained of; and the petitions were read, and referred to a select committee, to consider and report thereon; and Messrs. ANDERSON, CONDIT, and GREGG, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill to engage, for a short period, a corps of volunteers in the service of the United States; and, after debate, the further consideration thereof was postponed to Monday next.

The Senate resumed the bill, entitled "An act to authorize the removal of slaves from one part of the District of Columbia to another;" and, after debate, adjourned.

MONDAY, February 5.

HENRY CLAY, appointed a Senator by the Legislature of the State of Kentucky, in the place of Buckner Thruston, attended, and, the oath prescribed by law having been administered to him, he took his seat in the Senate.

The PRESIDENT communicated the report of the Commissioners of the Sinking Fund, stating that the measures which have been authorized by the Board subsequent to their last report of the 4th of February, 1809, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to the Board, dated the second day of the present month, and the statements therein referred to; which are therewith transmitted and prayed to be received as part of their report.

And the report was read, and ordered to lie for consideration.

The Senate resumed the bill, entitled "An act to authorize the removal of slaves from one part of the District of Columbia to another;" and it was ordered to the third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of Government during the year one thousand eight hundred and ten;" also, a bill, entitled "An act to prescribe the mode in which application shall be made for the purchase of land at the several land offices; and for the relief of

FEBRUARY, 1810.

Proceedings.

SENATE.

Joab Garret," in which bills they desire the concurrence of the Senate.

The bills last brought up for concurrence were read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill to engage, for a short period, a corps of volunteers in the service of the United States; and, on motion by Mr. GREGG, to strike out, from section third, line fourth, the words "immediately thereafter," for the purpose of inserting "upon entering into service," in lieu thereof—

Mr. BRADLEY called for a division of the question, and the question was taken on striking out; and passed in the affirmative—yeas 16, nays 16, as follows:

YEAS—Messrs. Bayard, Champlin, Gaillard, German, Goodrich, Gregg, Hillhouse, Horsey, Lloyd, Mathewson, Pickering, Reed, Smith of New York, Sumter, Tait, and Turner.

NAYS—Messrs. Anderson, Bradley, Brent, Campbell, Clay, Condit, Crawford, Franklin, Giles, Lambert, Leib, Parker, Pope, Robinson, Smith of Maryland, and Whiteside.

On the question to insert the words "upon entering into service," it was determined in the affirmative—yeas 21, nays 12, as follows:

YEAS—Messrs. Bayard, Champlin, Clay, Gaillard, German, Giles, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lloyd, Mathewson, Parker, Pickering, Reed, Smith of Maryland, Smith of New York, Sumter, Tait, and Turner.

NAYS—Messrs. Anderson, Bradley, Brent, Campbell, Condit, Crawford, Franklin, Lambert, Leib, Pope, Robinson, and Whiteside.

On motion, by Mr. SMITH, of Maryland, it was agreed that the consideration of the bill be further postponed.

Mr. SMITH, of Maryland, from the committee to whom was recommended, on the 17th January, the bill to incorporate a company for making certain turnpike roads in the District of Columbia, reported amendments; which were read for consideration.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of John N. Stout."

Ordered, That it pass to a third reading.

TUESDAY, February 6.

On motion, by Mr. BAYARD,

Resolved, That the Attorney General be required to lay before the Senate, a statement of the number and nature of the cases depending before the Supreme Court, upon writ of error or appeal from the district court of Orleans; and, also, information as to the extent and nature of the jurisdiction actually exercised by the said district court.

The bill, entitled "An act to prescribe the mode in which application shall be made for the purchase of land at the several land offices, and for the relief of Joab Garret," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. GREGG,

CAMPBELL, and ANDERSON, were appointed the committee.

The bill, entitled "An act making appropriations for the support of Government during the year 1810," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. SMITH of Maryland, ANDERSON, CRAWFORD, FRANKLIN, and GOODRICH, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill to engage, for a short period, a corps of volunteers in the service of the United States; and, on motion by Mr. BAYARD, it was agreed to postpone the bill for the purpose of considering the report of the committee to whom was referred the letter from the Surveyer of the Public Buildings, of the 28th of November last; and, on motion, by Mr. BAYARD, the report having been amended, was agreed to as follows:

Resolved, That, from and after Saturday, the 10th instant, the Senate will hold their session in the new Senate Chamber, lately provided in the north wing of the Capitol.

Mr. LLOYD submitted the following motion.

Resolved, That the President of the United States be, and hereby is, requested to cause to be laid before the Senate the amount of duties which has accrued on merchandise imported into the United States from any port or place in the Mediterranean, since the 30th of June, 1804, and also the amount of duties which has accrued in consequence of the duty of two and a half per centum laid on all goods, wares, and merchandise, paying a duty ad valorem, imported into the United States; which said duty was laid for protecting the commerce and seamen of the United States, for carrying on warlike operations against any of the Barbary Powers which might commit hostilities against the United States, and for defraying the expenses incidental to an intercourse with the said Powers.

The consideration of the bill last mentioned was resumed, as in Committee of the Whole; and sundry amendments having been submitted by Mr. BRADLEY, on motion, it was agreed that the consideration of the bill, together with the amendments, be postponed until to-morrow.

The bill, entitled "An act to authorize the removal of slaves from one part of the District of Columbia to another," was read the third time. On motion by Mr. GILES, the bill was recommitted to a select committee, to consider and report thereon; and Messrs. BRADLEY, GILES, and REED, were appointed the committee.

The bill, entitled "An act for the relief of John N. Stout," was read the third time, and passed.

The bill granting a right of pre-emption to purchasers of public lands in certain cases was resumed, and postponed.

The Senate resumed the bill to incorporate a company for making certain turnpike roads in the District of Columbia; and the consideration thereof was postponed until to-morrow.

The Senate resumed the third reading of the bill to incorporate religious societies in the District of Columbia; and the consideration thereof was postponed until Monday next.

SENATE.

Proceedings.

FEBRUARY, 1810.

WEDNESDAY, February 7.

On motion, by Mr. BRADLEY, it was agreed that the further consideration of the bill to engage a corps of volunteers, for a short period, in the service of the United States, be the order of the day for Monday next.

The Senate resumed, as in Committee of the Whole, the report of the select committee on the bill to incorporate a company for making certain turnpike roads in the District of Columbia; and, after progress, the further consideration thereof was postponed until to-morrow.

A message from the House informed the Senate that the House have passed a bill, entitled "An act to extend the time for locating Virginia military land warrants, and for returning the surveys thereon to the Secretary of the Department of War;" in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

THURSDAY, February 8.

The bill, entitled "An act to extend the time for locating Virginia military land warrants, and for returning the surveys thereon to the Secretary of the Department of War," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. GREGG, GILES, and BRENT, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to incorporate a company for making certain turnpike roads in the District of Columbia, together with the report of the select committee thereon; which was amended and agreed to; and the bill having been further amended, the President reported it to the House accordingly. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The Senate resumed the second reading of the bill granting a right of pre-emption to purchasers of public lands in certain cases; and on the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The Senate resumed the motion submitted on the 18th of January for an amendment to the Constitution of the United States, together with the amendments reported thereon by the select committee; and, on motion by Mr. BAYARD, it was agreed that the consideration thereof be the order of the day for Tuesday next.

FRIDAY, February 9.

Mr. GREGG, from the committee to whom was referred the bill, entitled "An act authorizing the discharge of William Hawkins from his imprisonment," reported it with an amendment; which was agreed to, and the bill was ordered to the third reading as amended.

Mr. GIZMAN, from the committee, reported that they had examined and found correctly engrossed the bill granting a right of pre-emption to purchasers of public lands in certain cases; and the

bill was read the third time; and the blank having been filled with "six hundred and forty," on motion, by Mr. BRADLEY, the consideration of the bill was further postponed.

The PRESIDENT communicated a letter from Robert Fulton, with sundry copies of his pamphlet, explanatory of the practice and effects of torpedoes; and the letter was read.

The PRESIDENT communicated the report of the Attorney General, made in obedience to the resolution of the Senate of the 6th instant; which was read, and referred to the committee to whom was referred, on the 1st instant, the bill relative to the district court of the United States established in the Territory of Orleans.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to prevent the issuing of sea-letters, except to certain vessels," in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

MONDAY, February 12.

The bill, entitled "An act to prevent the issuing of sea-letters, except to certain vessels," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BAYARD, BRADLEY, and LEIB, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill authorizing a subscription, on behalf of the United States, to the capital stock of the Chesapeake and Delaware and Ohio Canal Companies; as amended; and, on motion by Mr. BAYARD, it was agreed that the further consideration thereof be postponed until Wednesday next.

The Senate resumed the third reading of the bill granting a right of pre-emption to purchasers of public lands in certain cases; and, on motion by Mr. BRADLEY, it was agreed that the further consideration thereof be postponed until Thursday next.

The Senate resumed the bill to incorporate religious societies in the District of Columbia; and, on motion by Mr. ANDERSON, the further consideration thereof was postponed to the first Monday in December next.

The bill, entitled "An act authorizing the discharge of William Hawkins from his imprisonment," was read the third time, as amended, and passed.

The Senate resumed the consideration of the motion made on the sixth instant respecting the duties on goods imported from the Mediterranean, which was amended and agreed to, as follows:

Resolved, That the President of the United States be, and he hereby is, requested to cause to be laid before the Senate the amount of duties which has accrued on merchandise imported into the United States from any port or place in the Mediterranean since the 30th of June, 1804; and, also, the amount of duties which has accrued in consequence of the duty of two and a half per cent. laid on all goods, wares, and merchandise, paying a duty ad valorem, imported into the Uni-

FEBRUARY, 1810.

Volunteer Corps.

SENATE—

ted States; which said duty was laid by the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers;" and the several acts to revive and continue the same in force.

Ordered, That the Secretary lay this resolution before the President of the United States.

The bill to incorporate a company for making certain turnpike roads in the District of Columbia was read the third time as amended; and, on motion by Mr. SMITH of Maryland, it was agreed, by unanimous consent, to amend the bill, as follows: line 113, after the word "mentioned," insert "for and during the term of twenty years, after which it shall be lawful for Congress to regulate said tolls, provided the said tolls shall never be reduced so that the stockholders shall not receive ten per centum interest on their capital stock;" and some of the blanks having been filled, as follows:

- The 1st with "twenty-five cents."
- 2d "twenty-five cents."
- 3d "fifty-cents."
- 4th "twelve and-a-half cents."
- 5th "twenty cents."
- 6th "six cents."

On motion, by Mr. LEIB, it was agreed to recommit the bill, for the purpose of providing a difference between the tolls on business and pleasure carriages; and Messrs. LEIB, SMITH of Maryland, and BRENT, were appointed the committee.

CORPS OF VOLUNTEERS.

The Senate resumed, as in Committee of the Whole, the bill to engage a corps of volunteers for a short period in the service of the United States.

Mr. BAYARD.—The bill before us proposes the payment of a sum exceeding eight hundred thousand dollars, to men engaged to serve as volunteers, even though no service should ever be rendered or required. The amendment which has been submitted is designed to save this money, unless these men should be called from their private employments into the public service. The gentleman from Pennsylvania, who has just sat down, (Mr. LEIB,) has said that it is no impeachment of the patriotism of a volunteer to suppose he will not engage to serve when called upon, unless he is paid for the engagement twenty-five dollars, although he may never be called into service; and, to illustrate his position, he has attempted a parallel (by no means a happy one) between the case of a volunteer and a member of the National Legislature. We are paid, he says, not only for our daily attendance in this place, but for the expenses of the road from the time we leave our homes. Upon this footing place the volunteers, and the objection is removed. The moment they leave their homes they are in the public service, and from that moment they ought to be paid. When a man gives up his time to the public, he ceases to labor for himself, and has a fair claim to public remuneration. But will you empty the public Treasury, already nearly exhausted, in paying for services which

may and probably never will be rendered? Let us reserve the money till the service is required; we can then have some assurance that it will not be thrown away.

I was, sir, not a little amused by the course pursued yesterday by the gentleman from Kentucky, (Mr. POPE.) He began by complaining of the desultory manner in which the debate had been conducted, and yet he indulged himself in a very long and certainly an eloquent speech without feeling an obligation to say one word in relation to the important question before us. If, sir, I should be guilty of the same departure from the question in the remarks I have to submit, I shall feel myself justified and protected by the example he has been allowed to set.

The general merits of the bill having been brought into discussion, I am at liberty to inquire into the primary question, whether the condition of the country renders it expedient, at this time, to increase its military force? I consider it as a principle in a free Government, such as we live under, that the military force, committed to the hands of the Executive, should be restrained within narrow bounds, and ought not to be augmented but in a case of evident necessity. A large military force is at all times dangerous to the liberties of a country, and the expense with which it must be attended, is, with us, a strong additional objection in the present low state of our finances.

The question, then, which I propose is, whether a necessity exists to increase our Military Establishment? It already amounts to ten thousand men; they are enough for our garrisons; and, with the views which I have taken of the state of the country, we do not now, nor are we likely to want for men for any other purpose upon land.

The gentleman from Kentucky, (Mr. POPE,) yesterday, and the gentleman from Pennsylvania (Mr. LEIB) to-day, have not only said, but pressed it upon us, that the President had recommended an augmentation of our military force; and the same gentleman from Pennsylvania has gone to the extent of saying that, as the President had recommended this augmentation, he would take it for granted that it was necessary. And are we, sir, come to this point, that we are to take for granted whatever the President recommends? If the President barely recommends an increase of the Army, of the Navy, or of taxes, are we to take it for granted that power cannot be abused, or the people burdened unnecessarily? Are we, then, no better than the ancient Parliament of Paris, sitting solely to register the edicts that are sent to us? Are we prepared to establish the principle of Presidential infallibility? I am disposed to treat the recommendation with all due respect and deference, but this respect and deference will carry me no further than to carefully inquire into the expediency of the measure recommended.

The President may be better informed than we are on the subject of our foreign affairs. I presume he is so; and upon that ground it was urged a few days ago, upon the resolution submitted for

the purpose, that the President should be required to indicate the information which induced the necessity of augmenting our military force. The same gentlemen and their friends then told us that the President had sent us all the information he possessed on the subject. Nay, sir, it was treated as an imputation upon the integrity of the Executive conduct to suspect that any material information had been withheld from us. As gentlemen have refused to enlighten our minds with Presidential knowledge, and have left us in the darkness of our own ignorance, I shall, for my own part, still consider it as my duty, with the dim light I possess, to inquire into the subject, and to decide according to the best judgment I can form.

The question, whether it is expedient to augment our military force, would seem, in a great degree, to depend upon the question, Shall we have war or preserve peace? If there be no reason to apprehend war, we have a sufficient army for a Peace Establishment; but, even in the event of the only war that can be expected, it is extremely evident that the corps designed to be raised by the bill before us, is not suited to the service which the probable nature of the warfare would require. In my opinion, war is not to be apprehended, and our present army is, therefore, sufficient for our purpose, without incurring the expense of the measure now proposed to us. Who is to make the war, and upon what ground is it to be declared? I have never contended nor said that we have not cause for war against England and France. I agree entirely with the gentleman from Rhode Island (Mr. CHAMPLIN) that there is cause enough to justify us, in the eyes both of God and man, to make war upon either of these nations. This sentiment I avowed in my place in the session of last year. It is not with a view to the interest of France, or England, that I am not disposed to make war; but if, under all we have suffered, we have an evident interest to remain at peace, what reason requires us, or what motive can induce us, to abandon that interest? The course of our conduct has long since decided that we are not going to war for that bauble "honor." "The days of chivalry are past." It is not a question of profit and loss; and it requires little calculation to see how the account would stand between war and peace in relation to Great Britain.

I have said that we have just cause of war against England and France, and though less is said of the wrongs which we have endured from France, in fact they have surpassed those suffered from England. Trust me, sir, that I mean not to justify or extenuate the outrages of England, but those of France, I affirm to have been more atrocious and insupportable. I need not go back to the Berlin and Milan decrees. They are merged in that of Bayonne. This decree is nothing short of a declaration of war, as it authorizes the indiscriminate capture of all American vessels found upon the ocean. In fact, to the extent of her means, France has carried on this war. Does she allow a vessel to escape, which she has

the power to take? And, when there has been danger of her losing the prey, sooner than relinquish the prize to the American owner, she has put fire to it and destroyed it. Your captured seamen have been cast into irons, and treated more like felons than prisoners of war. What can exceed this state of things? Not an article of the treaty made under the Consular Government has been observed; and, instead of deigning to treat with you respecting the rights you claim, or the grievances you complain of, she imperiously prescribes the course you are to pursue, and, assuming the sovereignty of your nation, she has had the audacity to declare war for you against her enemy! Whatever she could do, France has done to injure, insult, and degrade this country. No doubt we should not have borne from her all which we have submitted to, had it not been for the acts of violence and injustice which we have experienced upon the part of Britain. She also has furnished us cause for war, and done enough to provoke it. She has given laws to the ocean promotive of her own interests and destructive of our rights. She has taken from us, by violence, the colonial trade, and, by the arbitrary extension of the principle of blockade, leaves us the commerce with Europe, held by the miserable tenure of her good will. Our seamen she forcibly takes from our own ships, and scourges them upon the guns of her men-of-war if they refuse to enter into her service. Her conduct upon these subjects, or any one of them, is cause enough of war, when the nation is disposed to go to war.

It has, sir, been a painful task to me to make a comparison between the wrongs and outrages which we have endured from the two great belligerents. But while a recent occurrence has inflamed the public mind against one, we ought not to lose sight of the hostile conduct of the other.

After all, the question which we have now to consider is, whether war is an event upon which we are to calculate? No one speaks or thinks of a war with France. She can do no more than she has done. One Congress after another have passed over, and it is now rather too late to resent what we have so long submitted to.

Is it likely, then, that we shall have war with Great Britain? Who is to commence the war? Not the United States; our faith is pledged to further the negotiation before we have recourse to hostility. Our Government has informed the British Government that they are still willing to treat, if Britain will send to us a Minister of better manners. In the face of these peaceful assurances, can you make war? Would our republican virtue avail itself of the example, if to be found in the perfidy of Monarchs, of violating our pledged faith! We have aspired to a better and fairer character; and if the Powers of Europe have disregarded the obligation of moral right, I trust we shall not furnish them with the means of retorting the reproach upon us. Good faith would not allow us at present to commence war; and give me leave to say that you have the proof upon your table, in the bill sent from

FEBRUARY, 1810.

Volunteer Corps.

SENATE.

the other House, that they have determined not to go to war. The bill before us supposes war, and therefore requires an augmentation of our military force. The bill they have sent us supposes peace, both with Britain and France, and proceeds to regulate our commercial relations with those countries. It is idle for us to think of war when the House of Representatives, who have a stronger hold on public confidence, as well as of the purse strings, have averted their eyes from the prospect. I deem it settled that nothing exists for which at this time this Government will declare war against Great Britain.

The recent affront given by the British Minister to our Secretary of State, or to our Government, if you please, will surely not drive us into a war, after patiently submitting to the capture and condemnation of our vessels carrying colonial produce; to the interdiction of our commerce from the ports of the Continent under the arbitrary and feigned blockades; to the impressment of our seamen on board of our own vessels; and to the cruel and bloody aggression in the case of the Chesapeake. After all these things, and twice as many more on the part of France have not driven us to madness and to war, the nation will certainly not agree to shed its blood for a small affair of honor between two public functionaries.

Of this celebrated affair, which is already spread over the face of volumes, it does not belong to my subject, or to my purpose, to say one word further than to inquire whether it is likely to prove a cause of immediate war. On our part that point is settled. We have discarded the Minister, and thus revenged the insult offered to the Government. It is thus we have retorted the insult on Mr. Jackson, and the account is closed between him and the Secretary of State; and we have assured the British Government that, the affair being personal, we shall be ready to treat with any other Minister she will send us.

The only question remaining upon this head is, will Britain commence the war? I answer, surely not. She has no motive. She has done, and continues to do, as she pleases on the ocean. She has nothing to complain of. She felt her self injured at one time by the neutral flag covering enemies' merchandise; but her decrees and her conquests have relieved her from all uneasiness upon that subject. England does not and cannot feel herself an injured party, and having an interest to remain at peace with us, it is against every probability that she will commence the war as long as she is satisfied that no such intention is harbored upon our part. She will not be pleased with the late rejection of her Minister; but still she cannot make it a cause of war, because it is personal and not national. Our Government considers that Mr. Jackson has offered them an insult, and though the British Government may view the subject in a different point of light, they will surely have liberality enough to allow us to be the judges of our own feelings. We have assured them that the dismissal of Mr. Jackson was not designed to shut the door of negotiation; and although it is pos-

sible that they may despair of being able to send us a Minister to our taste, (for, send who they may, they will still send us an Englishman,) yet they will certainly be willing, if we are content, to let things remain in their present condition. Upon the whole, sir, I conclude that there is no probability of an immediate war, and therefore that an augmentation of our military force is not necessary.

We have, however, been reproached by the gentleman who reported this bill for having voted for an increase of the Navy, while we are opposed to any augmentation of the Army. I did vote for the four additional frigates, and I should have been willing to vote for four ships-of-the-line. The United States require, for the protection of their territory, a standing army of a certain amount. Our present Military Establishment exceeds ten thousand men. These are designed for the security of our persons and property upon land; and is not the person and property of the citizen entitled to protection upon the ocean?

God has decided that the people of this country should be a commercial people. You read that decree in the seacoast of seventeen hundred miles which he has given you; in the numerous navigable waters which penetrate the interior of the country; in the various ports and harbors scattered along your shores; in your fisheries; in the redundant productions of your soil; and, more than all, in the enterprising and adventurous spirit of your people. It is no more a question whether the people of this country shall be allowed to plough the ocean, than it is whether they shall be permitted to plough the land. It is not in the power of this Government, nor would it be if it were as strong as the most despotic upon the earth, to subdue the commercial spirit, or to destroy the commercial habits of the country. Young as we are, our tonnage and commerce surpass those of every nation upon the globe but one, and if not wasted by the deprivations to which they were exposed by their defenceless situation, and the more ruinous restrictions to which this Government subjected them, it would require not many more years to have made them the greatest in the world. Is this immense wealth always to be exposed as a prey to the rapacity of freebooters? Why will you protect your citizens and their property upon land, and leave them defenceless upon the ocean? As your mercantile property increases, the prize becomes more tempting to the cupidity of foreign nations. In the course of things the ruins and aggressions which you have experienced will multiply, nor will they be restrained while we have no appearance of a naval force.

I have always been in favor of a Naval Establishment—not from the unworthy motives attributed by the gentleman from Georgia to a former Administration, in order to increase patronage, but from a profound conviction that the safety of the Union and the prosperity of the nation depended greatly upon its commerce, which never could be securely enjoyed without the protection

of naval power. I offer, sir, abundant proof for the satisfaction of the liberal mind of that gentleman, that patronage was not formerly a motive in voting an increase of the Navy, when I give now the same vote, when surely I and my friends have nothing to hope, and for myself I thank God nothing to wish, from the patronage it may confer.

You must and will have a Navy; but it is not to be created in a day, nor is it to be expected, that in its infancy, it will be able to cope foot to foot with the full-grown vigor of the navy of England. But we are even now capable of maintaining a naval force formidable enough to threaten the British commerce, and to render this nation an object of more respect and consideration.

In another point of view, the protection of commerce has become more indispensable. The discovery is completely made, that it is from commerce that the revenue is to be drawn which is to support this Government. A direct tax, a stamp act, a carriage tax, and an excise, have been tried; and I believe, sir, after the lesson which experience has given on the subject, no set of men in power will ever repeat them again, for all they are likely to produce. The burden must be pretty light upon the people of this country, or the rider is in great danger. You may be allowed to sell your back lands for some time longer, but the permanent fund for the support of this Government is the imports.

If the people were willing to part with commerce, can the Government dispense with it? But, when it belongs equally to the interest of the people and of the Government to encourage and protect it, will you not spare a few of those dollars which it brings into your Treasury to defend and to protect it?

In relation to the increase of a permanent military force, a free people cannot cherish too great a jealousy. An army may wrest the power from the hands of the people, and deprive them of their liberty. It becomes us, therefore, to be extremely cautious how we augment it. But a navy of any magnitude can never threaten us with the same danger. Upon land, at this time, we have nothing—and probably, at any future time, we shall have but little—to fear from any foreign Power. It is upon the ocean we meet them; it is there our collisions arise; it is there we are most feeble, most vulnerable, and most exposed; it is there, by consequence, that our safety and prosperity must require an augmented force.

I have been endeavoring to show, Mr. President, from an examination of the posture of our affairs in relation to Britain and France, that there is no such probability of war with either of these nations as to require or to justify an expensive measure, designed for an increase of our military force. I now proceed to show, that in the event of war with either of these Powers, the force designed to be raised by this bill will be useless, and incapable of rendering the very service for which they are probably intended.

Let me first suppose a war with France—what are we to apprehend from this war? Not the invasion of our territory. She has troops in abun-

dance, but how is she to transport them across the Atlantic? Would she ask permission of Great Britain? or could she do it without license? It is now for her a great achievement, when her transports or men-of-war, by fast sailing, or by hard fighting, can make a successful voyage from one of her own ports to another. While the present war continues, (and it is not likely to end very soon,) we have nothing to dread from a French invasion.

Then, suppose the war with England—is it probable that our territory will be invaded? The gentleman from Vermont (Mr. BRADLEY) has told us that the frontiers of his State would be exposed to the irruption of a British and savage force of not less than two thousand men. If, sir, there be anything to fear from this quarter, what becomes of the brilliant prospects which have been presented to us, within and without these Halls, of forcing Britain to terms by seizing her Northern possessions? And this Canada, which has been promised and pledged as a fund to compensate us for our expenses, and to indemnify us for our losses? And now we are called upon to provide thirty thousand men to defend us from invasion from that feeble province! But the fear of invasion from Canada does not exist. Canada is furnished with troops for defence, but none for invasion. More than thirty years ago, the invasion of an army of ten thousand men upon that quarter was fatal to the invaders. Britain has not forgotten the fate of Burgoyne, and she would consider, also, that where she heretofore met one gun, she would now find three presented; and that, instead of encountering men shackled with the scruples of former allegiance, she would have to fight sons of freedom, invigorated from their infancy with a sense of liberty and independence. The brave militia of Vermont would want nobody to help them in a struggle with Canada—they would agree to fight that province single-handed; and, take my word for it, the Crown of England would as freely stipulate for the neutrality of Canada in a war with the United States, as in the Continental wars she has done for that of Hanover. Would Britain attempt to invade us in any other quarter? It is evident that she has occasion for all her troops upon the Continent and at home, and we may consider it as certain that she would not hazard a body of troops, capable of making an impression upon this country, three thousand miles from her. In case of a British war, invasion is put out of the question. The purpose of the troops to be raised by this bill can, then, only be to invade and conquer the British possessions on our Continent, in the event of war. We have, therefore, to inquire whether they could be employed for that purpose?

Upon a former occasion the gentleman from Virginia (Mr. GILES) attributed to me an opinion upon the question which I had not then formed, because I had not then examined the question; but the attention which I have since been able to bestow upon it, has completely satisfied me that the militia cannot constitutionally be marched beyond the limits of our territory for the purpose

FEBRUARY, 1810.

Volunteer Corps.

SENATE.

of conquest. A different doctrine is repugnant to the nature and design of a militia, and the plain demonstrations of intention upon the face of the Constitution. The militia is the whole physical force of a country supposed to be capable of bearing arms. Such a force was never placed at the disposal of any government for the purpose of conquest. They are designed for the support of law and order, and to defend our liberties and rights against domestic usurpation or foreign invasion. They are not instruments of power, to gratify ambition by despoiling other people of their territory or self-government. They devote themselves alone to the sacred duty of defending their country and maintaining their Constitution and laws. Proclaim to the militia that it is in the power of the Government to carry them abroad, in order to make foreign conquests, and you annihilate the vital spirit of the body. They are no longer the defenders solely of their country; they are equally the instruments of wrong and oppression.

The Constitution, in relation to foreign nations, does not contemplate conquest, but defence only; and there is not, especially with regard to the militia, a single provision which warrants a pretence to employ them for the purpose of conquest. The only provision on the subject which has been referred to is in the eighth section of the first article, in which power is given to Congress "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

I have heard it frequently remarked by the gentleman from Virginia, that there was not a sentence, a word, or even a comma, in the Constitution, not replete with meaning and definite intention. I have always considered it as an instrument constructed with admirable ability. We will then consider whether the construction put upon the passage cited comports with the high character for precision which we agree in attributing to the Constitution.

The power relied upon by the gentleman, is that given to call out the militia to execute the laws. The obvious meaning of this provision refers to the general administration of the laws of the United States: Combinations may be formed to resist the execution of the law (as happened in relation to the excise law) which the feeble arm of civil authority may not be able to coerce. The Constitution, in such case, affords the aid of the militia; and, in the case to which I referred, they were made use of in support of the law. But the gentleman insists that Congress may make a law to take possession of a foreign country, and that the militia may then be called upon to execute the law.

Congress has no power but what is delegated to it; and if the important power to make conquests had been designed to be given, would it have been conferred by so precise an instrument as we agree the Constitution to be, under cover of a forced and obscured inference from a power evidently given for another purpose? On this important point the Constitution has studiously

and definitely described the occasion upon which the militia may be employed—"to execute the laws, to suppress insurrections, and to repel invasions."

If it had been intended to employ them in the important and perilous work of conquest, would an express provision have been made for their use in the case of insurrections and invasions, to which, naturally, they would have been applied, and nothing said as to conquests, in its nature the most questionable service into which they could be called? This is not consistent with the character which we have agreed belongs to the Constitution. If, further, the point depended upon the question, whether Congress could make a law directing the Executive to conquer a foreign country, the militia could never be called upon to make foreign conquests, because Congress has no power to make such a law. Conquests are under the laws of nations, and not under municipal law. Legislative jurisdiction depends upon one of two grounds—viz: territory or allegiance. The operations of your laws are confined to the circuits of your own territories, unless operating upon the allegiance of your citizens. If the principle contended for be correct, you might still make it treason for the subjects of a foreign State to resist your invasion as to make it lawful for your President to take possession of their country. Nay, if such an act of Congress could be passed, it would, as the law of treason has been settled among us, be treason to resist it; and you would hang the patriot as a traitor who came forward to defend his country.

The gentleman from Virginia has put several cases, involving, as he supposes, inconvenience or absurdity upon our construction of the Constitution. He supposes the enemy upon your frontier threatening an invasion, and the ground more favorable for attack upon their side of the line than upon ours. He asks also, if, in an encounter, they are forced over the line, whether you may not pursue them? Upon these cases I have no difficulty in saying you may pass the line, if done for the purpose of repelling an invasion. The Constitution expressly delegates the power to employ a militia to repel an invasion. If, therefore, they are passed into a foreign territory, in a case in which it is necessary effectually to defeat an invasion, I should suppose they were constitutionally employed. It will depend, therefore, upon the *quo animo* they are carried out of their own territory. If, as the means to repel an invasion, the Constitution, having given the power to repel invasion, gives also the means of employing them effectually for that purpose; but for conquest, they are not allowed to be used. They are instruments too precious to be employed in the service of ambition.

The gentleman has told us that he considered the point settled when the militia were employed to take possession of Louisiana, when acquired by the cession of France. I mean not, sir, at this time, to say a word upon the question which has been heretofore agitated, whether the limits of our territory could be enlarged, either by purchase

or conquest, consistently with the Constitution; but, admitting for the present that they might be in either way, there is certainly a great difference between employing the militia to defend a territory already acquired, and marching them into a foreign territory, for the purpose of acquiring it. In one case you use them to repel invasion from a territory belonging to you; and, in the other, to invade a territory which does not belong to you. I respect the "*res judicata*" as much as the gentleman, but I must be allowed to tell him that the case he cited is not in point.

If I am correct in either of my positions, that war at this time is not to be apprehended; or if, on the other hand, it should take place with England, the only use to be made of this corps is the invasion of Canada, it is evident that in neither event do we want a force of this description. If there be war, no augmentation of the military force is necessary. But you would not, surely, throw away eight hundred thousand dollars unnecessarily; and if the only war should happen which appears in the remotest degree probable, this force will not answer the purpose for which it is intended. Of what nature it is I mean presently to inquire; but it evidently carries with it a sufficiency of the militia character not to allow you, Constitutionally, to employ it for the purpose of conquest. I cannot, therefore, consent to sacrifice nearly a million of dollars upon a fruitless project.

Before we vote, Mr. President, for the bill before us, it belongs to us to ascertain the nature of the military corps which we are about to form. The Constitution recognises but two species of military force—one the militia and the other the army. The militia is the physical strength of the country capable to bear arms. They are not brought into service by enlistment, but by allegiance. They are not recruits, but soldiers made by law. They are detached from private life by law, commanded to take the field whenever the order, peace, or safety of the country require it. The obligation to serve is not from any personal agreement, but from the assent implied from the social compact. The ordinary nature and occasion of their employment detains them in the field but a short time, and returns them at the end of a short period to the bosoms of their families, and replaces them in the common character of citizens. Being the natural and efficient defence of the rights and liberties of the country, a prudent jealousy has vested in distinct authorities the power to appoint officers for these and for the Army. The former belongs to the States, the latter to the United States. The Army is composed of men enlisted under the authority of the United States, agreeing to serve as soldiers for a limited time, subject to military law, and officered by the Government of the United States. To which of these classes are we to assign the corps designed to be raised by the bill before us? The plan exhibits every feature of a regular army, except the mode of officering. The volunteers are enlisted by companies or sections, and yet individually, for the consent of each man is

to be obtained, and he subscribes the engagement to serve. They are paid a bounty, and agree to serve for a limited time. In this instance the period limited is a year, but the same law may extend to five or ten years. If you call this corps no army, but a militia, you easily evade an important provision in the Constitution. The Constitution prohibits any appropriation of money being made for the use of the Army for more than two years. These two years send the Representatives to their constituents, and if a dangerous or unnecessary military force has been raised, the people relieve themselves from the peril of the burden by the employment of men whose views and designs better correspond with their own. But this volunteer force being militia, and no part of the Army, may be engaged for ten years, and may be supported by a permanent appropriation for that time. What security have you against a standing force of this nature more than in the case of a standing army? The only difference is, that the officers receive their commissions from the States; but, called into service, are they not fed, clothed, and paid by the United States, and subject only to the orders of the Executive? But, of what consequence would it be, after they had been embodied for a short period of time, had acquired an *esprit du corps*, were deriving their subsistence and pay from this Government, and were subject to its orders alone, from what quarters the officers originally derived their commissions? This corps is of spurious origin, and a mongrel breed. It is an unnatural mixture of army and militia. The men have every character of the soldiers of a standing army, and those that command them have but one mark of militia officers. Let us have an army or militia of full blood; we shall then be acquainted with their properties, and know what we have to rely on. But, the plan of this bill seems calculated to engender a military corps with all the bad qualities of a militia and of an army, without one good property of either.

I shall be indulged in one word as to the mode in which it is provided that the corps shall be officered. The militia, sir, with us, are territorially assigned to companies, regiments, and brigades. They who live in certain districts of country form a company, and so on, regiments and brigades. The officer of one regiment or brigade has no command out of his regiment or brigade. This bill forms the companies and regiments out of the different companies, regiments, and brigades. A body thus composed could not be commanded, under the laws of the State, by any officer by virtue of his State's commission. But, by this bill, the President is to assign to each officer his respective command. It is not, then, the commission that makes the officer or confers command, but the assignment of the President. The State power, under the commission, is dormant until the hand of the President shakes it from its slumbers. In fact, the necessity of State commissions only limits the compass of selection, but the officer is substantially appointed (and without the concurrence of this body) and com-

FEBRUARY, 1810.

Volunteer Corps.

SENATE.

missioned by the President. The officer has no command until he is assigned. And how is this assignment to be made? Not by message, but the officer must have something to show for it. It must be a warrant, by some instrument of writing; and, call it by what name you will, in substance it is a commission. And this, let me tell you, will be a formidable and dangerous encroachment upon the power of the States.

Will you permit me now, sir, to ask why the militia are not to be relied on, and in what point they will be excelled by this corps of volunteers? The gentleman from Kentucky told us he was not for an increase of the regular troops, but was for raising a body of citizen soldiers. I am also against an augmentation of the regular force, and equally against an increase of military force to be composed of the mongrel breed of this bill. I think we might safely rely, for any emergency likely to arise, upon those who alone truly deserve and are justly characterized by the appellation of citizen soldiers—the militia, in their pure, unadulterated state. How are these volunteers improved by the money you pay them? They remain at home, are not imbodied, disciplined, nor trained; when required for service, for the first time, are they placed in their ranks, and a musket put into their hands. What better are they than the militia, who will turn out if danger threatens the country, without a bounty, as expeditiously as these volunteers?

We are to consider, further, the invidious nature of this system, and its inequality and injustice. It looks as if you could not rely upon the body of the militia, but must call the choice spirits to form a separate corps. Does this operation improve or flatter the militia? And, by selecting a part, do you not disorganize and disparage the remainder?

Again, sir, if service be required and the United States be assailed at any particular point, can you suppose that thirty thousand men, scattered over the face of our country, from Maine to Georgia, will dispense with the employment of the militia? The militia and volunteers are then called upon to turn out at the same time—the first gratuitously, the latter for the bounty which they have received. Will the body of the militia be satisfied that a part of them, without any better pretensions than the others, are paid for turning out, when they are obliged to perform the same duty for nothing?

Again, sir, will you not consult the state of your Treasury before you incur the fruitless expense of this bill? Let me direct your eyes to the report of the Secretary of the Treasury for a view of the deplorable condition of your finances. We there find that the Treasury is empty; we see to the bottom of it, and the streams have failed which formerly replenished it. In this state of things, is it a matter of no moment to part with eight hundred thousand dollars—I may say to throw them away—for if the bill passes, they are gone, and the United States have no prospect of benefit in return? At present there is no probability that these volunteers will be

wanted, and if called into service, if as good, they are not better soldiers than the militia, whom we have for our reliance without the waste of public money.

We are told for our comfort by the gentleman from Virginia, (Mr. GILES,) that if, as he admits it is shown by the report of the Secretary of the Treasury, our Treasury is empty, and that a loan of four millions of dollars will be necessary for the estimated expenses of the current year, yet that our credit is good, and of course we can borrow to the extent of our wants. This suggestion furnishes but a very gloomy prospect. Credit is not a visionary structure; it requires a solid foundation to rest on. If you have nothing but credit to support a war in its commencement, what will support your credit in the progress of a long, expensive, and ruinous contest? If, after a prosperous peace of five and twenty years, the ill-judged restrictions of your commerce for two years have exhausted your Treasury, what will be the state of your finances at the end of a wasteful war of three or five years, which immediately destroys the great source of your revenue? Loans are our ultimate resort, and what are we to forbode if driven, in the commencement of a war, to our last resource? But, sir, if necessity will justify our borrowing, are you excused in borrowing for projects evidently unnecessary and fruitless?

If we possessed at this moment the overflowing Treasury which a short time since puzzled the wits and invention of your members to dispose of its surpluses, I should feel less objection to the generous donations which the bill proposes; but, at a crisis when the wants of the Government are increasing and its resources are decaying, I conceive it to be a time illy selected to display our liberality or to indulge profusion.

When gentlemen will convince me that there is danger of invasion, I shall be as ready as any one on this floor to vote for an augmentation of our military force—not upon the principles of this bill, but upon such as would add to the strength of the Army, or improve the condition of the militia; and, even with the view I have of the state of our affairs, I will agree to such preparations for defence as will serve us in the event of war, and yet not be useless, or lost, if peace should be preserved. If the committee will take back this bill and propose the expenditure of eight hundred thousand dollars in the purchase of arms to be deposited in convenient arsenals for the use of the militia; I will agree to lay out not only eight hundred thousand dollars, but a million of dollars. According to the estimate contained in the bill, a million of dollars will furnish a hundred thousand stand of arms and accoutrements. This will arm the one hundred thousand militia who are to hold themselves in readiness for service when and wherever they may be called into the field. Adopt this measure, and if, happily, we escape a war, your money is not lost. The arms are a treasure deposited in your arsenals of more value than the dollars which are paid for them deposited in your Treasury. Such is the only

SENATE.

Proceedings.

FEBRUARY, 1810.

preparation upon land, which, at this time, I would make for war. If hostilities happen, I do not dread invasion. But if, in such event, our enemy should be bold enough to invade our territory, I conceive the best and cheapest defence of the nation will be to supply our citizens with arms.

When Mr. BAYARD had concluded, the further consideration of the bill was made the order of the day for Monday next.—And on motion the Senate adjourned.

TUESDAY, February 13.

Mr. GREGG, from the committee to whom was referred, on the sixth instant, the bill from the House of Representatives, entitled "An act to prescribe the mode in which application shall be made for the purchase of land at the several land offices, and for the relief of Joab Garret," reported the bill with amendments; which were considered and agreed to, and the bill was ordered to the third reading as amended.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill from the House of Representatives, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes," reported it with an amendment.

The Senate resumed the motion made on the 18th of January for an amendment to the Constitution of the United States, together with the amendments reported thereon by the select committee.

On motion, by Mr. CRAWFORD the resolution was recommitted to a select committee, to consist of five members, further to consider and report thereon; and Messrs. REED, CRAWFORD, LEIB, GILES, and PICKERING, were appointed the committee.

Mr. BAYARD, from the committee to whom was referred, on the first instant, the bill relative to the district court of the United States established in the Territory of Orleans, reported it with amendments; which were read.

On motion, by Mr. LEIB, it was agreed that the further consideration of the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes," together with the amendment reported thereon, be the order of the day for Monday next.

WEDNESDAY, February 14.

Mr. GILMAN, from the committee, reported the amendments to the bill, entitled "An act to prescribe the mode in which application shall be made for the purchase of land at the several land offices, and for the relief of Joab Garret," correctly engrossed; and the bill was read the third time as amended.

Resolved, That this bill pass with amendments.

Mr. BRADLEY, from the committee to whom was referred, on the 20th of December, the bill, entitled "An act to revive an act, entitled 'An act

for the relief of the refugees from the British Provinces of Canada and Nova Scotia, and for other purposes," reported the bill with amendments; which were read.

The Senate resumed the consideration of the report of the select committee on the bill relative to the district court of the United States established in the Territory of Orleans; and, on motion, the Senate adjourned.

THURSDAY, February 15.

Mr. BRADLEY, from the committee to whom was recommitted, on the 6th instant, the bill, entitled, "An act authorizing the removal of slaves from one part of the District of Columbia to another," reported the bill with amendments; which were read.

The Senate resumed the bill granting a right of pre-emption to purchasers of public lands in certain cases; and, on motion by Mr. BRADLEY, the bill was recommitted to a select committee, to consist of five members, further to consider and report thereon; and Messrs. BRADLEY, GREGG, MEIGS, FRANKLIN, and CAMPBELL, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee to the bill, entitled "An act to revive an act, entitled 'An act for the relief of the refugees from the British Provinces of Canada and Nova Scotia, and for other purposes';" and, having agreed thereto, the President reported the bill to the House amended accordingly.

Ordered, That this bill pass to the third reading as amended.

Mr. SMITH, of Maryland, from the committee to whom was referred, on the 6th instant, the bill, entitled "An act making appropriations for the support of Government during the year one thousand eight hundred and ten," reported the same with amendments; which were read.

Mr. HILLHOUSE submitted the following motion:

Resolved, That the President of the United States be requested to cause to be laid before the Senate information of the manner in which the act, entitled "An act to amend and continue in force certain parts of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,'" has been executed; and how far exports to, and imports from, the ports of Great Britain, have been, or now are permitted; and, whether collectors of districts in the United States do not admit to an entry goods the growth and manufacture of Great Britain, and, if so, under what authority the same is done."

Mr. REED, from the committee to whom was recommitted, on the 13th instant, the resolution for an amendment to the Constitution of the United States, together with the amendments reported thereon by the select committee, reported the same further amended, to read as follows:

"No title of nobility shall be granted by the United

FEBRUARY, 1810.

Proceedings.

SENATE.

States; and no person holding any office of profit or trust under them, shall, without the consent of Congress, accept of any present, emolument, office, or title of any kind whatever, from any Emperor, King, Prince, or foreign State. And, if any citizen of the United States shall accept of any title of nobility, or of any other title of distinction, above or below that of nobility, from any Emperor, King, Prince, or foreign State, or shall hold the same by descent, such citizen shall thenceforth be incapable of exercising or enjoying any of the rights and immunities of a free citizen of the United States, or of the individual States; and shall, also, be incapable of holding any office of profit or trust under them, or either of them."

FRIDAY, February 16.

The Senate resumed the motion made yesterday, for information on the manner in which the non-intercourse law has been executed.

On motion, by Mr. GILES, to amend the motion, by striking out all that follows the word "information," and inserting, in lieu thereof, these words:

"Whether, in the execution of the act, entitled 'An act to amend and continue in force certain parts of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,' exports to, and imports from Great Britain or France have been, or are now permitted; and, whether collectors of districts in the United States do not admit to an entry goods the growth and manufacture of Great Britain or France:'"

Mr. HILLHOUSE called for a division of the question, and it was taken on striking out; and passed in the affirmative—yeas 19, nays 10, as follows:

YEAS—Messrs. Anderson, Bradley, Campbell, Condit, Franklin, Gaillard, German, Giles, Gilman, Lambert, Mathewson, Meigs, Parker, Robinson, Smith of Maryland, Smith of New York, Tait, Turner, and Whiteside.

NAYS—Messrs. Bayard, Crawford, Goodrich, Gregg, Hillhouse, Horsey, Lloyd, Pickering, Reed, and Sumter.

On the question to adopt the amendment, amended as follows:

"Whether, in the execution of the act, entitled 'An act to amend and continue in force certain parts of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,' exports to, and imports from, the ports of Great Britain or France have been, or are now permitted; and whether collectors of districts in the United States do not admit to an entry goods the growth and manufacture of Great Britain or France; and the instructions under which such collectors have acted:'"

It was determined in the affirmative—yeas 29, nay 1, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Campbell, Champlin, Condit, Crawford, Franklin, Gaillard, German, Giles, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Lloyd, Mathewson, Meigs, Parker, Pickering, Robinson, Smith of Maryland, Smith of New York, Sumter, Tait, Turner, and Whiteside.

NAY—Mr. Reed.

So it was *Resolved*, That the President of the United States be requested to cause to be laid before the Senate information whether, in the execution of the act, entitled "An act to amend and continue in force certain parts of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,'" exports to, and imports from, the ports of Great Britain or France have been, or are now permitted; and whether collectors of districts in the United States do not admit to an entry goods the growth and manufacture of Great Britain or France; and the instructions under which such collectors have acted.

Ordered, That the Secretary lay this resolution before the President of the United States.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act making appropriations for the support of Government during the year 1810;" together with the amendments reported by the select committee; and, after progress, on motion by Mr. BAYARD, it was agreed that the further consideration thereof be postponed to Monday next.

MONDAY, February 19.

Mr. BRADLEY presented a petition from the committee in behalf of the Trustees of the Erie Literary Society, stating that the Legislature of the State of Ohio, in the year 1803, incorporated that society, with power to establish a college in the Connecticut Western Reserve; and that the Trustees have fixed upon the town of Burton, in the county of Granger, for the purpose; and praying a donation in land for the benefit of the institution; and the petition was read, and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. BRADLEY, GREGG, and GOODRICH, were appointed the committee.

Mr. BRADLEY presented the petition of Amasa Soper, of Westminster, in the State of Vermont, late a Captain in the Revolutionary army of the United States, detailing his services and sufferings, and praying relief; and the petition was read.

The PRESIDENT communicated a report from the Secretary of War, on the sale of public arms to individual States, as authorized by the act of the 2d of April, 1808, entitled "An act authorizing the sale of public arms;" which was read, and ordered to lie for consideration.

Mr. LEIB presented the petition of Joseph Joshua Dyster, stating that he had discovered a new and important mode of propelling vessels through the water by means of steam; and praying Congress to grant him the privilege of obtaining for that purpose a patent right, he not having been long enough a resident in the United States to entitle him thereto; and the petition was read, and referred to a select committee, to consider and report thereon; and Messrs. LEIB, GOODRICH, and MATHEWSON, were appointed the committee.

SENATE.

Proceedings.

FEBRUARY, 1810.

The bill, entitled "An act to revive an act, entitled 'An act for the relief of the refugees from the British Provinces of Canada and Nova Scotia, and for other purposes,'" was read the third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act making appropriations for the support of Government during the year 1810," together with the amendments reported by the select committee.

On motion, by Mr. LLOYD, to strike out the following words, section 1, lines 160, 161: "For repaying the Bank of the United States a sum advanced to the late collector of New Orleans, to enable him to pay drawbacks, one hundred thousand dollars;" it was determined in the negative—yeas 8, nays 22, as follows:

YEAS—Messrs. Bayard, Champlin, Goodrich, Hillhouse, Horsey, Lloyd, Pickering, and Reed.

NAYS—Messrs. Bradley, Brent, Campbell, Condit, Crawford, Franklin, Gaillard, German, Giles, Gregg, Lambert, Leib, Mathewson, Meigs, Parker, Robinson, Smith of Maryland, Smith of New York, Sumter, Tait, Turner, and Whiteside.

And the report of the select committee having been amended, was agreed to; and the PRESIDENT having reported the bill to the House amended accordingly, on the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit a report of the Secretary of the Treasury, complying with their resolution of the 12th instant.

JAMES MADISON.

FEBRUARY 17, 1810.

The Message and report were read, and ordered to lie for consideration.

Mr. HILLHOUSE presented the petition of William Marbury and others, inhabitants of Georgetown and District of Columbia, praying a law authorizing a turnpike from the intersection of Fayette and High street, continued by Tennytown, to the place where the Fredericktown road now crosses the District line; and the petition was read, and ordered to lie for consideration.

TUESDAY, February 20.

Mr. LEIB presented the memorial of a large number of the citizens of the State of Pennsylvania, on the subject of our foreign relations, and remonstrating against the passage of a bill pending in the Senate, respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes; and the memorial was read.

Mr. GERMAN presented the petition of a number of the citizens of the city of New York on the same subject; which was read.

Mr. MEIGS, from the committee appointed on the 8th of January, to inquire into the expediency of establishing by law a Land Department of the United States, reported a bill to add to the officers of the Treasury a Superintendent of the

Public Lands of the United States; which was read, and passed to the second reading.

Mr. GILMAN, from the committee, reported the amendments to the bill, entitled "An act making appropriations for the support of Government, for the year one thousand eight hundred and ten," correctly engrossed; and the bill was read the third time as amended.

Resolved, That this bill pass with amendments.

Mr. BRADLEY submitted the following motion:

Resolved, That a committee be appointed to inquire into the expediency of employing the torpedo, or submarine explosions, in conjunction with the naval and military operations of the United States, for the better defence of their ports and harbors; with leave to report by bill or otherwise.

The PRESIDENT communicated a petition of George H. Hannah and others, impressed American seamen, in the British service, praying the interposition of Government for their relief; and the petition was read, and referred to the Secretary of State, to consider and report thereon to the Senate.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason, reported it with amendments; which were read.

The Senate resumed the consideration of the motion made on the 18th of January, for an amendment to the Constitution of the United States, together with the amendments reported by the select committee; and, after debate, on motion, by Mr. GILES, the motion was recommitted to a select committee, further to consider and report thereon; and Messrs. CRAWFORD, GILES, REED, PICKERING, and BAYARD, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes," together with the amendments reported thereto by the select committee.

On motion, by Mr. GILES, to postpone the further consideration thereof until Monday next, it was determined in the negative—yeas 25, as follows:

YEAS—Messrs. Bayard, Champlin, Giles, Horsey, Mathewson, Meigs, Parker, and Robinson.

NAYS—Messrs. Anderson, Bradley, Campbell, Clay, Condit, Crawford, Franklin, Gaillard, German, Gilman, Goodrich, Gregg, Hillhouse, Lambert, Leib, Lloyd, Pickering, Pope, Reed, Smith of Maryland, Smith of New York, Sumter, Tait, Turner, and Whiteside.

On motion, by Mr. CRAWFORD, it was agreed that the further consideration of the bill be postponed until to-morrow.

WEDNESDAY, February 21.

The bill to add to the officers of the Treasury a Superintendent of the Public Lands of the United States was read the second time.

The Senate resumed the motion made yesterday on the subject; and

FEBRUARY, 1810.

Proceedings.

SENATE.

Resolved, That a committee be appointed to inquire into the expediency of employing the torpedo, or sub-marine explosions, in conjunction with the naval and military operations of the United States, for the better defence of their ports and harbors; with leave to report by bill or otherwise.

Ordered, That Messrs. BRADLEY, CRAWFORD, GREGG, CONDIT, and LEIB, be the committee.

Mr. CRAWFORD, from the committee to whom was referred, on the 31st of January, the bill, entitled "An act for the appointment of an additional judge, and extending the right of suffrage to the citizens of Madison county, in the Mississippi Territory, reported the bill with amendments; which were read.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes;" together with the amendments reported thereto by the select committee.

On motion, by Mr. SMITH, of Maryland, to strike out the 3d, 4th, 5th, 6th, 7th, 8th, 9th, and 11th sections of the bill, it was determined in the affirmative—yeas 16, nays 11, as follows:

YEAS—Messrs. Anderson, Bayard, Gaillard, German, Gilman, Goodrich, Gregg, Horsey, Leib, Lloyd Mathewson, Parker, Pickering, Reed, Smith of Maryland, and Tait.

NAYS—Messrs. Bradley, Brent, Clay, Condit, Crawford, Franklin, Lambert, Robinson, Smith of New York, Sumter, and Turner.

And sundry other amendments having been agreed to, the PRESIDENT reported the bill to the House amended, by striking out the 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, and 13th sections. On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

On motion, by Mr. ANDERSON, the further consideration of the bill, entitled "An act for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason," was postponed until to-morrow.

On motion, by Mr. BRENT, it was agreed that the bill, entitled "An act to authorize the removal of slaves from one part of the District of Columbia to another," be further postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing for the third census, or enumeration of the inhabitants of the United States;" a bill, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year one thousand eight hundred and ten;" also, a bill, entitled "An act making appropriations for the support of the Navy of the United States for the year one thousand eight hundred and ten;" in which several bills they desire the concurrence of the Senate.

The bills last brought up for concurrence were read, and passed to the second reading.

On motion, by Mr. SMITH, of Maryland, the

11th CON. 2d SESS.—19

bill, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year 1810," was read the second time by unanimous consent, and referred to a select committee, to consider and report thereon; and Messrs. SMITH, of Maryland, BRADLEY, and CRAWFORD, were appointed the committee.

On motion, by Mr. SMITH, of Maryland, the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1810," was read the second time by unanimous consent, and referred to a select committee, to consider and report thereon; and Messrs. GREGG, ANDERSON, and CLAY, were appointed the committee.

The Senate resumed the consideration of the bill relative to the district court of the United States established in the Territory of Orleans, together with the report of the select committee thereon; and having amended the bill and report, on motion, by Mr. BAYARD, it was agreed that the further consideration thereof be postponed until to-morrow.

On motion, by Mr. BAYARD, it was agreed that the bill authorizing a subscription on behalf of the United States to the capital stock of the Chesapeake and Delaware and Ohio Canal Companies, be postponed until to-morrow.

THURSDAY, February 22.

Mr. GREGG, from the committee to whom was referred the bill, entitled "An act for the relief of Jared Shattuck," reported it without amendment; and, on motion by Mr. GREGG, the further consideration thereof was postponed until the second Monday in March next.

Mr. BRADLEY presented several petitions from a number of the inhabitants of the Territory of Louisiana, praying to be admitted to the privileges consequent upon a second grade of Territorial government; and the petitions were read.

The PRESIDENT communicated the report of the Secretary of State, in obedience to the order of the Senate of the 20th instant; which was read for consideration.

The PRESIDENT communicated the report of the Secretary of War, in compliance with the act of the 21st April, 1808, of three statements, comprehending contracts made by the Secretary of War, and those made by the Purveyor of Public Supplies; and the report was read.

Mr. LEIB, from the committee appointed on the 19th instant, on the petition of Joseph Joshua Dyster, reported a bill to extend certain privileges therein mentioned to Joseph Joshua Dyster; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled "An act providing for the third census or enumeration of the inhabitants of the United States." And, on motion by Mr. LEIB, it was referred to a select committee, to consider and report thereon; and Messrs. LEIB, ANDERSON, CAMPBELL, FRANKLIN, and POPE, were appointed the committee.

NON-INTERCOURSE.

Mr. GILMAN, from the committee, reported the amendments to the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes," correctly engrossed; and the bill was read the third time as amended.

Mr. CLAY.—Mr. President: At all times embarrassed when I have ventured to address you, it is with peculiar diffidence I rise on this occasion. The profound respect I have been taught to entertain for this body, my conscious inadequacy to discuss, as it deserves, the question before you, the magnitude of that question, and the recent seat I have taken in this House, are too well calculated to appal, and would impel me to silence if any other member would assume the task I propose attempting. But, sir, when the regular troops of this House, disciplined as they are in the great affairs of this nation, are inactive at their posts, it becomes the duty of its raw militia, however lately enlisted, to step forth in defence of the honor and independence of the country.

I voted yesterday against the amendment offered by the gentleman from Maryland, because, while that vote did not pledge me for the ultimate passage of the bill, it would have allowed me to give it my support if no better proposition was tendered. I do not like the bill as sent from the House of Representatives. It was a crazy vessel, shattered and leaky; but it afforded some shelter, bad as it was. It was opposition to the aggressive edicts of the belligerents. Taken from us without a substitute, we are left defenceless, naked; and exposed to all the rage and violence of the storm.

Sir, have we not been for years contending against the tyranny of the ocean? Has not Congress solemnly pledged itself to the world not to surrender our rights? And has not the nation at large, in all its capacities of meetings of the people, State, and General Government, resolved to maintain at all hazards our maritime independence? Your whole circle of commercial restrictions, including the non-importation, embargo, and non-intercourse acts, had in view an opposition to the offensive measures of the belligerents, so justly complained of by us. They presented *resistance*—the *peaceful* resistance of the law. When this is abandoned without effect, I am for resistance by the *sword*.

No man in the nation wants peace more than I; but I prefer the troubled ocean of war, demanded by the honor and independence of the country, with all its calamities and desolation, to the tranquil and putrescent pool of ignominious peace. If we can accommodate our differences with one of the belligerents only, I should prefer that one to be Britain; but if with neither, and we are forced into a selection of our enemy, then am I for war with Britain, because I believe her prior in aggression, and her injuries and insults to us were atrocious in character. I shall not attempt to exhibit an account between the belligerents of mercantile spoliation inflicted and

menaced. On that point we have just cause of war with both. Britain stands pre-eminent in her outrage on us, by her violation of the sacred personal rights of American freemen, in the arbitrary and lawless imprisonment of our seamen, the attack on the Chesapeake—the murder, sir. I will not dwell on the long catalogue of our wrongs and disgrace, which has been repeated until the sensibility of the nation is benumbed by the dishonorable detail.

But we are asked for the means of carrying on the war, and those who oppose it triumphantly appeal to the vacant vaults of the Treasury. With the unimpaired credit of the Government, invigorated by a faithful observance of public engagements, and a rapid extinction of the debt of the land, with the boundless territories in the West presenting a safe pledge for reimbursement of loans to any extent, is it not astonishing that despondency itself should disparage the resources of this country? You have, sir, I am credibly informed, in the city and vicinity of New Orleans alone, public property sufficient to extinguish the celebrated deficit in the Secretary's report. And are we to regard as nothing the patriotic offer so often made by the States, to spend their last cent, and risk their last drop of blood, in the preservation of our neutral privileges? Or, are we to be governed by the low, grovelling parsimony of the counting room, and to cast up the actual pence in the drawer before we assert our inestimable rights?

It is said, however, that no object is attainable by war with Great Britain. In its fortunes, we are to estimate not only the benefit to be derived to ourselves, but the injury to be done the enemy. The conquest of Canada is in your power. I trust I shall not be deemed presumptuous when I state that I verily believe that the militia of Kentucky are alone competent to place Montreal and Upper Canada at your feet. Is it nothing to the British nation; is it nothing to the pride of her Monarch, to have the last of the immense North American possessions held by him in the commencement of his reign wrested from his dominion? Is it nothing to us to extinguish the torch that lights up savage warfare? Is it nothing to acquire the entire fur trade connected with that country, and to destroy the temptation and the opportunity of violating your revenue and other laws?

War with Great Britain will deprive her of those supplies of raw materials and provisions which she now obtains from this country. It is alleged that the non-intercourse law constantly evaded, is incapable of execution. War will be a non-intercourse, admitting of but partial elusion. The pressure upon her, contemplated by your restrictive laws, will then be completely realized. She will not have the game, as she will if you press this bill without an efficient system, entirely in her own hands. The enterprise and valor of our maritime brethren will participate in the spoils of capture.

Another effect of war will be, the reproduction and cherishing of a commercial spirit amongst us.

FEBRUARY, 1810.

Non-Intercourse.

SENATE.

Is there no danger that we shall become enervated by the spirit of avarice, unfortunately so predominant? I do not wish to see that diffusive military character, which, pervading the whole nation, might possibly eventuate in the aggrandizement of some ambitious chief, by prostrating the liberties of the country. But a certain portion of military ardor (and that is what I desire) is essential to the protection of the country. The withered arm and wrinkled brow of the illustrious founders of our freedom are melancholy indications that they will shortly be removed from us. Their deeds of glory and renown will then be felt only through the cold medium of the historic page. We shall want the presence and living example of a new race of heroes to supply their places, and to animate us to preserve inviolate what they achieved. Am I counting too much on the valor of my countrymen, when I indulge the hope, that, if we are forced into war, the American hero now lives, who, upon the walls of Quebec, imitating his glorious example, will avenge the fall of the immortal Montgomery? But we shall, at least, gain the approbation of our own hearts. If we surrender without a struggle to maintain our rights, we forfeit the respect of the world, and (what is worse) of ourselves.

We are often reminded that the British navy constitutes the only barrier between us and universal dominion. When resistance to Britain is submission to France, I protest against the castigation of our colonial infancy being applied in the independent manhood of America. I am willing, sir, to dispense with the parental tenderness of the British navy. I cannot subscribe to British slavery upon the water, that we may escape French subjugation on land. I should feel myself humbled, as an American citizen, if we had to depend upon any foreign Power to uphold our independence; and I am persuaded that our own resources, properly directed, are fully adequate to our defence. I am therefore for resisting oppression, by whomsoever attempted against us, whether maritime or territorial.

Considering then that the bill as amended in this House, in furnishing no substitute for the law of non-intercourse, which it repeals, nor the propositions of the other House, intended to take its place, is a total dereliction of all opposition to the edicts of the belligerents, I cannot vote for it in its present form. I move a recommitment of the bill to supply this defect. What ought to be the substitute, I confess I have not satisfied myself—not expecting that it would fall to my lot to make you this motion. The committee, however, can deliberate upon the subject, and propose one. I would suggest two for consideration—either a total non-importation, which our laws can doubtless enforce, or to arm our merchantmen, and authorize convoys. A day may be fixed, allowing sufficient time for the last effort of the negotiation. That failing, our merchants then to be permitted to arm, and to receive all the protection by convoys which the public vessels can give. This latter measure may lead to war, but it is not war. Our neutral rights are violated by the belligerents.

Each places our commerce under restrictions, not warranted by the law of nations. We must then submit, or protect it. Whilst we confine ourselves within the pale of that law, neither has a right to complain. When so armed, and pursuing our lawful destination, let those who attempt to molest us take to themselves the consequences of their own violations. On our part, a war thus produced will be a war of defence.

But, Mr. President, if, after all our deliberation, it shall be deemed unwise to adopt either of these expedients, perhaps some other unexceptionable course may occur. I insist that you do not return the bill to the other branch of the Legislature in its present form. They have sent you a measure, I acknowledge, weak; it is, however, not submission. It professes to oppose (in form, at least) the injustice of foreign Governments. What are you about to do—to breathe vigor and energy into the bill? No, sir; you have eradicated all its vitality, and are about to transmit back again the lifeless skeleton. I entreat the Senate to recollect the high ground they occupy with the nation. I call upon the members of this House to maintain its character for vigor. I beseech them not to forfeit the esteem of the country. Will you set the base example to the other House of an ignominious surrender of our rights, after they have been reproached with imbecility, and you extolled for your energy! But, sir, if we could be so forgetful of ourselves, I trust we shall spare you the disgrace of signing with those hands, so instrumental in the Revolution, a bill abandoning some of the most precious rights which it then secured.

The motion of Mr. CLAY to recommit the bill, for the purpose of amendment, was determined in the negative—yeas 13, nays 20, as follows:

YEAS—Messrs. Bradley, Brent, Campbell, Clay, Condit, German, Mathewson, Meigs, Parker, Pope, Robinson, Sumter, and Whiteside.

NAYS—Messrs. Anderson, Bayard, Champlin, Crawford, Franklin, Gaillard, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Leib, Lloyd, Pickering, Reed, Smith of Maryland, Smith of New York, Tait, and Turner.

On the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 26, nays 7, as follows:

YEAS—Messrs. Anderson, Bayard, Brent, Campbell, Champlin, Crawford, Franklin, Gaillard, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Leib, Lloyd, Mathewson, Meigs, Pickering, Reed, Smith of Maryland, Smith of New York, Sumter, Tait, Turner, and Whiteside.

NAYS—Messrs. Bradley, Clay, Condit, German, Parker, Pope, and Robinson.

So it was resolved that this bill pass with amendments.

On motion, by Mr. SMITH of Maryland, it was agreed that the title of the bill be amended, to read as follows: "An act to interdict the public ships and vessels of France and Great Britain from the ports and harbors of the United States, and for other purposes."

SENATE.

Proceedings.

FEBRUARY, 1810.

FRIDAY, February 23.

Mr. GREGG, from the committee to whom was referred the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1810," reported the bill without amendment. And on motion, by Mr. LEIB, to recommit the bill, for the purpose of amendment, it was determined in the affirmative—yeas 16, nays 14, as follows:

YEAS—Messrs. Bradley, Campbell, Condit, Crawford, Goodrich, Hillhouse, Lambert, Leib, Lloyd, Meigs, Reed, Robinson, Sumter, Tait, Turner, and Whiteside.

NAYS—Messrs. Anderson, Champlin, Clay, Franklin, Gaillard, German, Gilman, Gregg, Horsey, Mathewson, Parker, Pickering, Smith of Maryland, and Smith of New York.

Ordered, That Messrs. GREGG, CRAWFORD, and LEIB, be the committee.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act making appropriations for the support of the Military Establishment of the United States during the year 1810," reported the bill without amendment.

The Senate resumed, as in Committee of the Whole, the second reading of the bill to extend certain privileges therein mentioned to Joshua Dyster; and, on the question, Shall this bill be engrossed, and read a third time? it was determined in the affirmative.

On motion, by Mr. CLAY,

Ordered, That the petition of Richard B. Lee, with the report of the Secretary of War, made on the 29th November, 1809, together with all the other papers accompanying the said petition, be referred to a select committee, to consider and report thereon, by bill or otherwise; and Messrs. CLAY, CRAWFORD, and BRENT, were appointed the committee.

On motion, by Mr. LEIB, that the bill, entitled "An act making appropriations for the support of the Military Establishment of the United States, for the year 1810," be now read the third time, by unanimous consent, it was objected to, as against the rule.

The Senate resumed, as in Committee of the Whole, the second reading of the bill, entitled, "An act for the appointment of an additional judge, and extending the right of suffrage to the citizens of Madison county, in the Mississippi Territory," together with the amendments reported by a select committee; and, having agreed thereto, the PRESIDENT reported the bill to the House as amended; and, on the question, Shall this bill be read a third time, as amended? it was determined in the affirmative.

The Senate resumed the bill, entitled "An act to authorize the removal of slaves from one part of the District of Columbia to another;" and the further consideration thereof was postponed until Monday next.

On motion, by Mr. CRAWFORD, it was agreed that the bill relative to the district court of the United States, established in the Territory of Orleans, be printed, as amended.

The Senate resumed, as in Committee of the Whole, the bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason, together with the amendments thereto reported by the select committee; and, on motion, by Mr. BRADLEY, it was made the order of the day for Tuesday next.

The Senate resumed, as in Committee of the Whole, the bill to add to the officers of the Treasury a Superintendent of the Public Lands of the United States; and the further consideration was postponed until Wednesday next.

The Senate resumed as in Committee of the Whole, the bill authorizing a subscription on behalf of the United States to the capital stock of the Chesapeake and Delaware and Ohio Canal Companies; and the further consideration was postponed until Monday next.

The following Message, was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to the Senate a report of the Secretary of the Treasury, complying with their resolution of the 16th instant.

JAMES MADISON.

FEBRUARY 22, 1810.

The Message and papers were read, and ordered to lie for consideration.

Mr. BAYARD, from the committee to whom was referred the bill, entitled "An act to prevent the issuing of sea-letters, except to certain vessels," reported it without amendment.

MONDAY, February 26.

Mr. GILMAN, from the committee, reported the bill to extend certain privileges therein mentioned to Joshua Dyster correctly engrossed; and the bill was read the third time, and passed.

Mr. G., from the committee, also reported the amendments to the bill, entitled "An act for the appointment of an additional judge, and extending the right of suffrage to the citizens of Madison county, in the Mississippi Territory," correctly engrossed; and the bill was read the third time as amended.

Resolved, That this bill pass with amendments.

Mr. GREGG, from the committee to whom was recommitted the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1810," reported it with amendments, which were considered as in Committee of the Whole, and agreed to; and the President reported the bill to the House amended accordingly. On the question, Shall this bill be read the third time as amended? it was determined in the affirmative.

Mr. BRADLEY, from the committee appointed to consider on the propriety of employing the torpedo or sub-marine explosions for the defence of the ports and harbors of the United States, made a report, that the committee were unanimously of opinion, that a sum ought to be appropriated for the purpose of making experiments in relation thereto; and, in pursuance of this opinion, a bill was reported by the committee "making an ap-

FEBRUARY, 1810.

Proceedings.

SENATE.

propriation for the purpose therein mentioned." The bill was read, and passed to a second reading.

The bill, entitled "An act making appropriations for the support of the Military Establishment of the United States for the year 1810," was read the third time, and passed.

The Senate resumed the consideration of the bill, entitled "An act authorizing the removal of slaves from one part of the District of Columbia to another," together with the amendments reported thereto by the select committee.

On motion, by Mr. HILLHOUSE, to strike out the first section of the bill, for the purpose of inserting amendments, a division of the question was called for, and it was taken on striking out; and passed in the affirmative—yeas 21, nays 9, as follows:

YEAS—Messrs. Bradley, Campbell, Champlin, Condit, Crawford, German, Gilman, Goodrich, Gregg, Hillhouse, Lambert, Leib, Lloyd, Mathewson, Meigs, Parker, Pickering, Pope, Reed, Robinson, and Smith of New York.

NAYS—Messrs. Brent, Franklin, Gaillard, Giles, Smith of Maryland, Sumter, Tait, Turner, and Whiteside.

And, after debate, on motion by Mr. GILES, the bill was recommitted to a select committee, further to consider and report thereon. And Messrs. BRADLEY, GILES, and HILLHOUSE, were appointed the committee.

The following motion was submitted by Mr. LEIB:

Resolved, That a committee be appointed to inquire into the expediency of allowing additional rations to the commanders of separate posts, and to define what shall constitute a command to entitle an officer to additional rations; and that the committee have leave to report by bill or otherwise.

Mr. CAMPBELL gave notice that he should, tomorrow, ask leave to bring in a bill to alter the time for holding the district court in the State of Ohio.

TUESDAY, February 27.

Mr. GILMAN, from the committee, reported the amendments to the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1810," correctly engrossed; and the bill was read the third time as amended, and passed.

Mr. MEIGS presented the petition of the inhabitants of Marietta, praying a proportion of the proceeds of public lands within the State of Ohio may be appropriated to the improvement of the great post road leading from Western Port on the Potomac, to the Ohio, at Marietta; and the petition was read.

The bill making an appropriation for the purpose therein mentioned was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason, together with the report of the select committee

thereon; and on the question to agree to the amendment, as follows:

After the word "place, in the thirty-sixth line, insert, "to Joseph Shoemaker, for one hundred and two hogsheads and four barrels of sugar, exported from Philadelphia for Bordeaux, on the eighth of August, one thousand eight hundred and five, on which he states, that the taking said oath and giving said bond were prevented by a belief that the captain had cleared out on the twelfth, and that he had until the twenty-second to take said oath and give said bond; and from the pressure of business at the custom-house on the seventeenth (on which day he appeared) having prevented the officers of the customs from being enabled to attend to his business; that believing he had until the twenty-second, notwithstanding he was within the intermediate time, he did return to the custom-house within the said time, the twenty-second of the month, for the purpose of taking the oath, and signing the bond required, when he was informed that the ship had cleared on the eighth, and that he was thereby precluded."

It was determined in the affirmative—yeas 16, nays 15, as follows:

YEAS—Messrs. Campbell, Champlin, German, Giles, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lloyd, Mathewson, Meigs, Pickering, Reed, Smith of Maryland, and Smith of New York.

NAYS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, Lambert, Leib, Parker, Robinson, Sumter, Tait, Turner, and Whiteside.

And, after debate, on motion of Mr. LEIB, the further consideration of the bill was postponed until to-morrow.

Mr. CAMPBELL asked and obtained leave to bring in a bill for altering the time for holding the district court in the State of Ohio, and the bill was read, and passed to a second reading.

The Senate resumed the consideration of the motion made yesterday, "That a committee be appointed to inquire into the expediency of allowing additional rations to the commanders of separate posts, and to define what shall constitute a command to entitle an officer to additional rations, and that the committee have leave to report by bill or otherwise;" and, having agreed thereto, Messrs. LEIB, PICKERING, and SMITH of Maryland, were appointed the committee.

WEDNESDAY, February 28.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides, and the Honorable JOHN GAILLARD was appointed.

Ordered, That the Secretary wait on the President of the United States, and acquaint him that the Senate have, in the absence of the Vice President, elected the Hon. JOHN GAILLARD President of the Senate *pro tempore*.

Ordered, That the Secretary make a similar communication to the House of Representatives.

The bill for altering the time for holding the district court in the State of Ohio was read the second time, and referred to a select committee, to consider and report thereon; and Messrs.

CAMPBELL, ANDERSON, and MATHEWSON, were appointed the committee.

The Senate resumed the bill making an appropriation for the purpose therein mentioned, as in Committee of the Whole. On motion, by Mr. BAYARD, to postpone the further consideration thereof to the first Monday in December next, it was determined in the negative—yeas 12, nays 19, as follows:

YEAS—Messrs. Bayard, Campbell, Champlin, German, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Pickering, Reed, and Smith of New York.

NAYS—Messrs. Anderson, Bradley, Brent, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Lambert, Leib, Mathewson, Meigs, Robinson, Smith of Maryland, Sumter, Tait, Turner, and Whiteside.

On motion by Mr. ANDERSON, to recommit the bill to a select committee; and that the committee be instructed to ascertain at the Navy Department whether any, and what, experiments have been made of the torpedo; and whether it would be useful to make any, and what, experiments with the same; and, if any experiments ought to be made, what sum of money will be necessary to make the same?

Mr. SMITH, of Maryland, called for a division of the question, and it was taken on the recommitment—yeas 15, nays 15, as follows:

YEAS—Messrs. Anderson, Bayard, Campbell, Champlin, German, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Mathewson, Pickering, Reed, Smith of Maryland, and Smith of New York.

NAYS—Messrs. Bradley, Brent, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Lambert, Leib, Robinson, Sumter, Tait, Turner, and Whiteside.

So the motion was lost.

THURSDAY, March 1.

Mr. GREGG, from the committee to whom was referred the bill, entitled "An act to extend the time for locating Virginia military land warrants, and for returning the surveys thereon to the Secretary of the Department of War," reported it with amendments, which were read.

The PRESIDENT communicated the general account of the Treasurer of the United States from October 1st, 1808, to October 1st, 1809, as also the accounts of the War and Navy Departments for the same period; together with the reports of the accounting officers of the Treasury thereon; which were read.

Mr. BRADLEY, from the committee to whom was referred, on the 7th December, the petition of Charles Minifie, made a report on the subject; which was read.

He also asked and obtained leave to report a bill for the relief of Charles Minifie; and the bill was read, and passed to the second reading.

On motion, by Mr. GERMAN, it was agreed that the resolutions submitted on the 31st January, on the subject of convoys, be referred to the committee appointed on the 1st of December, on so much of the Message of the President of the United States, as respects the relations existing between the United States and Great Britain and France.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason, together with the report of the select committee thereon.

On motion, by Mr. LEIB, to postpone the further consideration thereof to the first Monday in December next, it was determined in the negative—yeas 13, nays, 18, as follows:

YEAS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gregg, Lambert, Leib, Robinson, Sumter, Tait, Turner, and Whiteside.

NAYS—Messrs. Bayard, Campbell, Champlin, Gaillard, German, Giles, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Meigs, Parker, Pickering, Pope, Reed, Smith of Maryland, and Smith of New York.

On motion, by Mr. BRADLEY, the bill was recommitment to a select committee, to consist of five members, further to consider and report thereon; and Messrs. BRADLEY, SMITH of Maryland, LLOYD, LEIB, and GILES, were appointed the committee.

The Senate resumed, as in Committee of the Whole, a bill making an appropriation for the purpose therein mentioned.

On the question, Shall this bill be engrossed, and read a third time? it was determined in the affirmative—yeas 16, nays 14, as follows:

YEAS—Messrs. Bradley, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Lambert, Leib, Meigs, Pope, Robinson, Sumter, Tait, Turner, and Whiteside.

NAYS—Messrs. Anderson, Bayard, Campbell, Champlin, German, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Parker, Pickering, Reed, and Smith of New York.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to prevent the issuing of sea-letters, except to certain vessels," and, after debate, on motion, by Mr. BAYARD, the further consideration thereof was postponed until to-morrow.

FRIDAY, March 2.

The bill for the relief of Charles Minifie was read the second time, and the further consideration thereof was postponed until Monday next.

Mr. LEIB, from the committee to whom was referred the bill, entitled "An act providing for the third census, or enumeration of the inhabitants of the United States," reported the bill with amendments.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to add to the officers of the Treasury a Superintendent of the Public Lands of the United States; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to prevent the issuing of sea-letters, except to certain vessels," and, after debate, on motion, by Mr. LLOYD, the bill was recommitment to a select committee, to consist of five members, further to consider and report thereon; and Messrs. BAYARD, SMITH of Maryland, LLOYD, POPE, and CHAMPLIN, were appointed the committee.

MARCH, 1810.

Proceedings.

SENATE.

The bill making an appropriation for the purpose therein mentioned was read the third time; and, on motion, by Mr. BRADLEY, the blank filled with "five thousand dollars." On the question, Shall this bill pass? it was determined in the affirmative—yeas 18, nays 13, as follows:

YEAS—Messrs. Bradley, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Lambert, Leib, Mathewson, Meigs, Pope, Robinson, Smith of Maryland, Sumter, Tait, Turner, and Whiteside.

NAYS—Messrs. Anderson, Bayard, Campbell, Champlin, German, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Pickering, Reed, and Smith of New York.

On motion, by Mr. ANDERSON, to amend the title, and that it be as follows:

"An act making an appropriation for the purpose of trying the practical use of the torpedo, or sub-marine explosion."

It was determined in the affirmative—yeas 23, nays 2, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Campbell, Champlin, Condit, Crawford, Franklin, Gaillard, German, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Leib, Lloyd, Mathewson, Pickering, Reed, Smith of New York, and Turner.

NAYS—Messrs. Sumter, and Whiteside.

Resolved, That this bill pass, and that the title thereof be "An act making an appropriation for the purpose of trying the practical use of the torpedo, or sub-marine explosion."

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of

Representatives of the United States:

I now lay before you copies of the treaties concluded with the Delaware, Pottawatimie, Miami, Eel River, and Wea tribes of Indians, for the extinguishment of their title to the lands therein described; and I recommend to the consideration of Congress the making provision by law for carrying them into execution.

JAMES MADISON.

FEBRUARY 28, 1810.

The Message was read, and ordered to lie for consideration.

MONDAY, March 5.

The PRESIDENT communicated a letter from the Governor of the State of Ohio, with a copy of a resolution of the General Assembly of that State, approving the measures of the General Government; which were read.

The PRESIDENT also communicated the report of the Postmaster General, made in obedience to the act of the 21st of April, 1808, concerning public contracts; together with his report on unproductive routes, pursuant to the 30th section of the act to establish the Post Office; and the reports were read, and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the bill authorizing a subscription on behalf of the United States to the capital stock of the Chesapeake and Delaware and Ohio Canal Companies; and on motion, by Mr. BAYARD, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act providing for the third census or enumeration of the inhabitants of the United States," together with the report of the select committee thereon; and having agreed to the report of the committee, the President reported the bill to the House amended accordingly; and the bill having been further amended, on the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

The Senate resumed the second reading of the bill for the relief of Charles Minifie. On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to extend the time for locating Virginia military land warrants, and for returning the surveys thereon to the Secretary of the Department of War," together with the report of the select committee thereon; and the report was agreed to; and the President reported the bill to the House accordingly. On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

The Senate resumed the bill to add to the officers of the Treasury a Superintendent of the Public Lands of the United States; and on motion, by Mr. GREGG, the further consideration thereof was postponed until Thursday next.

A message from the House of Representatives informed the Senate that the House disagree to the amendments of the Senate to the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes."

The Senate proceeded to consider the resolution of the House of Representatives, disagreeing to their amendments to the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes."

On motion of Mr. LEIB, to postpone the consideration thereof to this day week, it was determined in the negative—yeas 10, nays 21, as follows:

YEAS—Messrs. Bayard, Brent, Campbell, Champlin, German, Gregg, Leib, Robinson, Smith of Maryland, and Whiteside.

NAYS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, Gilman, Goodrich, Hillhouse, Horsey, Lambert, Lloyd, Meigs, Parker, Pickering, Pope, Reed, Smith of New York, Sumter, Tait, and Turner.

A motion was made, by Mr. ANDERSON, to adhere to the amendments: Whereupon, a motion was made, by Mr. POPE, to postpone the further consideration thereof until to-morrow; and, on motion, by Mr. SMITH, of Maryland, the Senate adjourned.

TUESDAY, March 6.

Mr. GILMAN, from the committee, reported the amendments to the bill, entitled "An act to ex-

tend the time for locating Virginia military land warrants, and for returning the surveys thereon to the Secretary of the Department of War," correctly engrossed; and the bill was read the third time as amended, and passed.

Mr. GILMAN, from the committee, reported the amendments to the bill, entitled "An act providing for the third census or enumeration of the inhabitants of the United States," correctly engrossed; and the bill was read the third time as amended.

On motion, by Mr. CAMPBELL, the bill was re-committed to a select committee, further to consider and report thereon. And Messrs. CAMPBELL, POPE, and ANDERSON, were appointed the committee.

Mr. BRADLEY submitted the following motion:

Resolved, That a committee be appointed to inquire whether any, and what, further provisions are necessary and expedient in relation to the intercourse between the United States and the Barbary Powers, with leave to report by bill or otherwise.

The Senate resumed the bill relative to the district court of the United States established in the Territory of Orleans, as amended; and on motion, by Mr. BAYARD, the further consideration thereof was postponed until to-morrow.

Mr. MEIGS presented the petition of the citizens of the county of Athens, in the State of Ohio, praying a law to make and establish a permanent national road, leading from the seat of the Federal Government through Clarksburgh to Ohio, striking the State near the mouth of the Muskingum river; and the petition was read, and referred to a select committee, together with the petition of the inhabitants of Marietta, presented on the 27th of February, to consider and report thereon; and Messrs. MEIGS, ANDERSON, and BRADLEY, were appointed the committee.

Mr. GILMAN, from the committee, also reported the bill for the relief of Charles Minifie correctly engrossed; and the bill was read the third time, and passed.

THE MILITIA.

Mr. SMITH, of Maryland, from the committee to whom was referred so much of the Message of the President of the United States as relates to an effectual organization of the militia of the United States made report; which was read, and ordered to lie for consideration.

The report is as follows:

That, in considering the subject submitted to them, impediments of various and insuperable kinds present themselves to view. The Constitution of the United States gives to Congress only a qualified agency, on the subject of the militia, and authorizes them only "to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the States, respectively, the appointment of the officers and the authority of training the militia, according to the discipline prescribed by Congress." As, under this provision, no authority is delegated to Congress to regulate fines for non-attendance, nor to fix the days for training, the only efficient reasons seem to be wanting to give force and skill to this estab-

lishment: The law of 1792, already provides for organizing and disciplining the militia; and a subsequent act makes provision for arming them. All, therefore, within the power of Congress, seems to have been already done, unless it should be deemed expedient to make a new organization, by a classification, which shall constitute a select and a reserve militia.

The prejudices against such a mode of organization in many parts of the Union, and the difficulties to be surmounted, at a moment like the present, have deterred the committee from submitting such a project.

If the States are anxious for an effective militia, to them belong the power, and to them, too, belong the means of rendering the militia truly our bulwark in war, and our safeguard in peace; and, as the committee are willing to hope that the States will not be unmindful of the great duty of providing for the national safety, by a well ordered and effective militia, and as the committee are unwilling to derive any powers to Congress, not expressly given by the Constitution, nor necessarily incident to the powers delegated, they submit the following resolution, viz:

Resolved, That the committee be discharged from further consideration of this subject.

NON-INTERCOURSE.

The Senate resumed the resolution of the House of Representatives disagreeing to their amendments to the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes."

The question pending, when the Senate adjourned yesterday, was on adherence to their amendments to the bill.

Mr. ANDERSON observed that, when he had made the motion yesterday to *adhere*, he had done it under the impression that it was proper to bring the subject to a conclusion, and because he believed the interest of the country required that it should be finally acted on. He said he was still impressed with that idea; but, paying a deference to the opinion of his friends, desiring also to treat the House of Representatives with the respect due to that body, and because it was more conformable to the rules of proceeding generally observed, he withdrew the motion to *adhere*, and moved to *insist* on the amendments. He said he should, by parliamentary practice, have been fully justified in the motion to adhere before insisting. But it was proper that the two Houses of Congress should be courteous in their conduct to one another, and the state of affairs at present peculiarly required it; he therefore varied his motion. The question was then taken to *insist*, and carried without a division.

Mr. ANDERSON then moved to appoint a committee of conference, to confer on the subject with such committee as should be appointed by the House of Representatives.—Agreed to.

Messrs. ANDERSON, LEIB, and SMITH of Maryland, were accordingly appointed on the part of the Senate.

—
WEDNESDAY, March 7.

Mr. LEIB, from the committee to whom was recommitted the bill to incorporate a company

MARCH, 1810.

Proceedings.

SENATE.

for making certain turnpike roads in the District of Columbia, reported it with amendments; which were read.

Mr. SMITH, of Maryland, stated that he had received a resolution of the Legislature of the State of Maryland, instructing their Senators, and requesting their Representatives in Congress, to use all proper means and exertions to procure the passing a law establishing weights and measures; which was read.

The Senate resumed the motion made yesterday, "That a committee be appointed to inquire whether any and what further provisions are necessary and expedient in relation to the intercourse between the United States and the Barbary Powers, with leave to report by bill or otherwise;" and, having agreed thereto,

Ordered, That Messrs. BRADLEY, ANDERSON, and SMITH of Maryland, be the committee.

A message from the House of Representatives informed the Senate that the House insist on their disagreement to the amendments of the Senate to the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes." They agree to the conference proposed on the subject, and have appointed managers on their part.

Mr. BRADLEY, from the committee to whom was recommitted the bill, entitled "An act to authorize the removal of slaves from one part of the District of Columbia to another, reported the bill with amendments; which were read.

Mr. BRADLEY gave notice that, to-morrow, he should ask leave to bring in a bill for the preservation of peace and maintenance of the authority of the United States, in the ports, harbors, and waters, under their jurisdiction.

The Senate resumed, as in Committee of the Whole, the bill relative to the district court established in the Territory of Orleans, as amended; and, after debate, the further consideration thereof was postponed until to-morrow.

Mr. CAMPBELL, from the committee to whom was referred the bill for altering the time for holding the district court in Ohio, reported it without amendment. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The Senate adjourned.

THURSDAY, March 8.

Mr. GILMAN, from the committee, reported the bill for altering the time for holding the district court in Ohio correctly engrossed; and the bill was read the third time. And, on motion, by Mr. WHITESIDE, the bill was recommitted to a select committee, further to consider and report thereon; and Messrs. WHITESIDE, CAMPBELL, and POPE, were appointed the committee.

Mr. BRADLEY asked and obtained leave to bring in a bill for the preservation of peace and maintenance of the authority of the United States in the ports, harbors, and waters, under their ju-

risdiction; and the bill was read, and passed to the second reading.

Mr. LEIB submitted the following resolutions:

"Resolved, That the President of the United States be required to instruct our Minister at the Court of Great Britain to demand of the British Government an immediate compliance with the arrangement made by their Minister, Mr. Erskine, with this Government, comprising atonement for the attack upon the frigate Chesapeake, and a relinquishment of the Orders in Council; and that, on failure to execute that arrangement, our Minister be directed forthwith to return to the United States.

"Resolved, That the President of the United States be required to instruct our Minister at the Court of Great Britain to demand of the British Government an immediate release of all American citizens impressed into the British service, and that, on failure or refusal to make such release, our Minister be directed forthwith to return to the United States.

Resolved, That, on the failure or refusal of the Government of Great Britain, after demand made by our Minister to carry into effect the arrangement made by Mr. Erskine, the British Minister, or, on the refusal or failure to release all American citizens impressed into the British service, the President of the United States be authorized to issue letters of marque and reprisal against the ships and vessels belonging to the Government and subjects of Great Britain."

The Senate resumed, as in Committee of the Whole, the bill to incorporate a company for making certain turnpike roads in the District of Columbia, together with the report of the select committee thereon, and the report was agreed to; and the bill having been further amended, the President reported it to the House accordingly. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. BAYARD, from the committee to whom was recommitted the bill, entitled "An act to prevent the issuing of sea-letters, except to certain vessels," reported the bill with amendments; which were read.

The Senate resumed, as in Committee of the Whole, the bill relative to the district court established in the Territory of Orleans; and the amendment reported by the select committee having been agreed to, the President reported the bill to the House accordingly. On the question to agree to so much of the report of the Committee of the Whole as goes to strike out the first section of the original bill, it was determined in the affirmative—yeas 18, nays 10, as follows:

YEAS—Messrs. Bradley, Brent, Champlin, Condit, Crawford, Franklin, Gaillard, German, Lambert, Leib, Lloyd, Meigs, Parker, Reed, Smith of New York, Sumter, Tait, and Turner.

NAYS—Messrs. Anderson, Bayard, Campbell, Clay, Goodrich, Gregg, Horsey, Pope, Smith of Maryland, and Whiteside.

And the other amendments, agreed to as in Committee of the Whole, having been adopted, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

SENATE.

Proceedings.

MARCH, 1810.

FRIDAY, March 9.

Mr. GILMAN, from the committee, reported the bill to incorporate a company for making certain turnpike roads in the District of Columbia, correctly engrossed; and the bill was read the third time, and passed.

Mr. GILMAN, from the committee, also reported the bill relative to the district court of the United States established in the Territory of Orleans, correctly engrossed; and the bill was read the third time, and passed.

On motion of Mr. BRADLEY, it was agreed, by unanimous consent, to reconsider the vote, and to amend the bill as follows: In the second line, after the word *court*, insert *of the district of Orleans*.

Mr. CAMPBELL, from the committee to whom was recommitteed the bill, entitled "An act providing for the third census or enumeration of the inhabitants of the United States," reported the bill with amendments.

Mr. CHAMPLIN gave notice that, on Monday, he should ask leave to bring in a bill for extending the benefit of a drawback of the duties upon the exportation of all goods, wares, and merchandise, subject thereto, that may be transported by land from the district of Newport to the port of Boston, and from said Boston to said Newport.

On motion of Mr. BRADLEY, that the Senate take into consideration the resolutions submitted yesterday, respecting instructions to our Minister at the Court of Great Britain; on motion by Mr. LEIB, it was agreed that they lie on the table.

Mr. CAMPBELL presented the petition of the inhabitants of Chillicothe, in the State of Ohio, praying a proportion of the net proceeds of the public lands in the State of Ohio may be appropriated for the improvement of a great post road leading directly from the Potomac to Marietta, on the Ohio, and thence through Athens and Chillicothe, in a western direction; which petition was read, and referred to the committee to whom the petition of the citizens of the county of Athens and State of Ohio, presented by Mr. MEIGS, on the 6th instant, was referred, to consider and report thereon.

The Senate resumed the report of the committee to whom was referred so much of the Message of the President of the United States as relates to an effectual organization of the militia of the United States; and the committee was discharged from the further consideration of the subject.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to prevent the issuing of sea-letters, except to certain vessels," together with the report of the select committee thereon, and the report was agreed to; and the PRESIDENT reported the bill to the Senate accordingly. On the question, Shall this bill be read a third time, as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to authorize the removal of slaves from one part of the District of Columbia to another," together with the report of the select committee thereon; and the further consideration thereof was postponed until Monday.

MONDAY, March 12.

Mr. GILMAN, from the committee, reported the amendments to the bill, entitled "An act to prevent the issuing of sea-letters, except to certain vessels," correctly engrossed; and the bill was read the third time as amended, and passed.

Mr. GILES, from the committee to whom was referred, on the 3d January last, the Message of the President of that date, reported, in part, a bill appropriating a sum of money for procuring munitions of war, and for other purposes; and the bill was read, and passed to the second reading.

Mr. GILES, from the same committee, also reported, in part, a bill for the establishment of a Quartermaster's department; and the bill was read, and passed to the second reading.

Mr. GILES also communicated sundry documents from the Secretary of War, on the subject of the before-mentioned bills; which were read, and ordered to be printed for the use of the Senate, with the exception of the return of ordnance and military stores.

Mr. GILES presented the memorial of the Legislature of the Territory of Orleans, stating the inconveniences resulting from their form of government, and praying the Territory may be admitted a member of the Union, for reasons stated at large in the memorial; which was read, and referred to a select committee, to consist of five members, to consider and report thereon; and Messrs. GILES, BRADLEY, CRAWFORD, GOODRICH, and GREGG, were appointed the committee.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to amend an act, entitled 'An act for the establishment of a turnpike road in the county of Alexandria, in the District of Columbia';" also, a bill, entitled "An act to make public a road in Washington county, in the District of Columbia;" in which bills they request the concurrence of the Senate. The two bills last brought up for concurrence were read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act providing for the third census or enumeration of the inhabitants of the United States," together with the report thereon of the committee to whom the bill was recommitteed; and the report was agreed to, and the PRESIDENT reported the bill to the House accordingly. On motion by Mr. SMITH of Maryland, the bill was read the third time, by unanimous consent, as amended, and passed.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to authorize the removal of slaves from one part of the District of Columbia to another," together with the report of the select committee thereon. And, on motion by Mr. SMITH, of Maryland, the further consideration thereof was postponed until the first Monday in December next.

The bill for the preservation of peace and maintenance of the authority of the United States, in the ports, harbors, and waters, under their jurisdiction, was read the second time; and referred to a select committee, to consider and report thereon.

MARCH, 1810.

Withdrawal of Resolutions.

SENATE.

Messrs. BRADLEY, CRAWFORD, and GILES, were appointed the committee.

Mr. BAYARD submitted the following motion :

Resolved, That the report of the Secretary of the Treasury, of the 13th of December, 1790, and also the report of the Secretary of the Treasury, of the 2d of March, 1809, on the subject of a National Bank, be referred to a select committee; and that the committee have leave to report by bill or otherwise.

Mr. BRENT gave notice that to-morrow he should ask leave to bring in a bill to prevent the future migration of free negroes to the District of Columbia.

WITHDRAWAL OF RESOLUTIONS.

Mr. LEIB, on request, had leave to withdraw his resolutions submitted for consideration on the 8th instant.

Mr. LEIB remarked, that he had submitted the resolutions upon the table of the Senate under a conviction that the honor and interests of the nation required such a course of measures. He believed that it was time to have done with trifling, with a war of words, and with what had been termed *gasconade*; that the cup of expedients had been drained to the last dregs, and that a new mode of warfare became indispensable, to vindicate our honor and assert our rights. His impressions were, that a determined attitude alone could rescue us from the oppressor's wrong, awaken a sense of justice, or lead to that necessary alternative which an injured nation is sometimes obliged to resort to, to avoid greater calamity. He said, that he was no friend to war—that peace was the first wish of his heart—but that he could not consent to preserve it by a prostitution of the attributes of freemen. Insult, robbery, and murder, cried aloud for justice or for vengeance; and duty required of him the aid of his feeble efforts to rescue the nation from degradation. He remarked, that the resolutions were directed against one of the belligerents, only, and he would assign his reasons for the discrimination, and why he had selected Great Britain for their object. It had been admitted that we had a right to choose our enemy, and Great Britain was selected, because she was first in the career of maritime despotism, and had exercised it with unrelenting severity; because she stands alone in the impressment of our citizens, and dooms them to ignominious punishment, or compels them to fight her battles; because the national honor had been vitally wounded, in the attack upon our flag; and because she had heaped outrage upon aggression, and had imbrued her hands in the innocent blood of our citizens. Since the resolutions were offered, he further remarked, the aspect of things seemed to be somewhat varied, and a hope is entertained, from the advices received, that a change of attitude may be rendered unnecessary; and that, under present circumstances, such change is inexpedient, and may prove injurious. However sceptical he might be on this subject, he had no wish to embarrass the Administration in its negotiations; but, on the contrary, he wished to give full scope to any efforts for an amicable adjustment of our differences. He

wished not to throw in a cloud to intercept that glimpse which was supposed to be breaking upon us. His enmities, he said, were national, and would cease with the cause of excitement. Under these impressions, and in deference to the judgment of political as well as personal friends, to whose opinions he was always ready to render a willing homage, he said that he would withdraw the resolutions, reserving to himself the right to renew them under other circumstances.

TUESDAY, March 13.

The bill, entitled "An act to make public a road in Washington county, in the District of Columbia," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. LLOYD, SMITH of Maryland, and TAIT, were appointed the committee.

The bill, entitled "An act to amend an act, entitled "An act for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BRENT, SMITH of Maryland, and FRANKLIN, were the committee appointed.

The bill for the establishment of a quartermaster's department was read the second time.

The bill appropriating a sum of money for procuring munitions of war, and for other purposes, was read the second time.

Mr. BRADLEY, from the committee to whom was referred the bill granting a right of pre-emption to purchasers of public lands in certain cases, reported the bill with amendments; which were read.

The Senate resumed the motion made yesterday, that the report of the Secretary of the Treasury, of the 13th of December, 1790, and also the report of the Secretary of the Treasury of the 2d of March, 1809, on the subject of a national bank, be referred to a select committee, and that the committee have leave to report by bill or otherwise; and having agreed thereto, Messrs. BAYARD, CRAWFORD, ANDERSON, SMITH of Maryland, and FRANKLIN were appointed the committee.

Mr. WHITESIDE, from the committee to whom was recommitteed the bill for altering the time for holding the district court in Ohio, reported amendments; which were read.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of Jared Shattuck;" and, after debate, the further consideration thereof was postponed until Monday next.

The Senate resumed the bill to add to the officers of the Treasury a Superintendent of the Public Lands of the United States; and the further consideration thereof was postponed until Friday next.

The Senate resumed, as in Committee of the Whole, the bill for the improvement of the United States by public roads and canals, together with the report of the select committee thereon; and the report of the select committee was dis-

SENATE.

Proceedings.

MARCH, 1810.

greed to. The further consideration of the bill was then postponed until to-morrow.

WEDNESDAY, March 14.

Mr. LEIB, from the committee appointed the 27th of February on the subject, reported a bill to alter and amend the act, entitled "An act fixing the Military Peace Establishment of the United States;" and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill for altering the time for holding the district court in Ohio, together with the report of the select committee thereon, and the report was agreed to; and the President reported the bill to the House amended accordingly. On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill granting a right of pre-emption to purchasers of Public Lands in certain cases, together with the report of the select committee thereon. And it was agreed that the further consideration thereof be the order of the day for Monday next.

The Senate resumed, as in Committee of the Whole, the bill appropriating a sum of money for procuring munitions of war, and for other purposes.

On motion, by Mr. POPE, to amend the bill, it was agreed that the further consideration thereof be postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the bill for the establishment of a quartermaster's department; and, after debate, on motion, by Mr. GILES, it was agreed that the bill be recommitted to the original committee, further to consider and report thereon.

A message from the House of Representatives informed the Senate that the House agree to some, and disagree to other, amendments of the Senate to the bill, entitled "An act providing for the third census or enumeration of the inhabitants of the United States."

The Senate proceeded to consider the amendments disagreed to by the House of Representatives to the bill, entitled "An act providing for the third census or enumeration of the inhabitants of the United States;" and on motion, by Mr. POPE,

Resolved, That the Senate insist on their amendments disagreed to by the House of Representatives to the said bill, and ask a conference on the disagreeing votes of the two Houses.

Ordered, That Messrs. POPE, ANDERSON, and GREGG, be the managers at the said conference on the part of the Senate.

THURSDAY, March 15.

The bill to alter and amend the act, entitled "An act fixing the Military Peace Establishment of the United States," was read the second time.

A message from the House of Representatives informed the Senate that the House insist on

their disagreement to the amendments of the Senate to the bill, entitled "An act providing for the third census or enumeration of the inhabitants of the United States." They agree to the conference proposed on the subject, and have appointed managers on their part. They agree to the amendments of the Senate to the bill, entitled "An act to prevent the issuing of sea-letters, except to certain vessels," with an amendment; in which they request the concurrence of the Senate.

The Senate resumed, as in Committee of the Whole, the bill for the improvement of the United States by public roads and canals.

On motion, by Mr. SMITH, of Maryland, to strike out from section 1, line 9th, the words "one-half" and insert "two-thirds," it was determined in the affirmative—yeas 20, nays 12, as follows:

YEAS—Messrs. Champlin, Condit, Crawford, Franklin, Gaillard, Gilman, Goodrich, Gregg, Hillhouse, Lambert, Leib, Lloyd, Mathewson, Parker, Pickering, Robinson, Smith of Maryland, Smith of New York, Sumter, and Tait.

NAYS—Messrs. Anderson, Bayard, Bradley, Brent, Clay, German, Giles, Horsey, Meigs, Pope, Turner, and Whiteside.

On motion, by Mr. GREGG, further to amend the bill, on motion of Mr. LEIB the further consideration of the bill was postponed until to-morrow.

Mr. ANDERSON, from the managers at the conference on the disagreeing votes of the two Houses on the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes," reported that they could come to no agreement with the managers on the part of the House of Representatives.

FRIDAY, March 16.

The Senate proceeded to consider the amendment of the House of Representatives on the amendments of the Senate to the bill, entitled "An act to prevent the issuing of sea-letters, except to certain vessels." And, on motion, by Mr. BAYARD, the further consideration thereof was postponed until to-morrow.

The PRESIDENT communicated a report of the Secretary for the Department of the Treasury, with a statement of the emoluments of the officers employed in the collection of the customs, for the year 1809; which were read, and ordered to lie for consideration.

The bill for altering the time for holding the district court in Ohio, was read the third time, and passed.

The Senate resumed the bill to alter and amend the act, entitled "An act fixing the Military Peace Establishment of the United States;" and on motion, by Mr. LEIB, it was agreed that the further consideration thereof be the order of the day for Monday next.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

MARCH, 1810.

Non-Intercourse.

SENATE.

*To the Senate and House of
Representatives of the United States :*

A treaty having been entered into and duly ratified with the Kickapoo tribe of Indians, for the extinguishment of their title to certain lands within the Indiana Territory, involving conditions which require Legislative provision, I submit copies thereof to both branches, for consideration. JAMES MADISON.

MARCH 15, 1810.

The Message was read, and ordered to lie for consideration.

MONDAY, March 19.

The Senate resumed, as in Committee of the Whole, the bill granting a right of pre-emption to purchasers of public lands in certain cases, together with the report of the select committee thereon; and, after debate, on motion, by Mr. ANDERSON, it was agreed that the further consideration thereof be the order of the day for to-morrow.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled an act regulating the Post Office Establishment; a bill, entitled "An act for the relief of Amey Dardin, widow and representative of David Dardin, deceased;" also, a bill, entitled "An act for the relief of Elizabeth Hamilton;" in which several bills they desire the concurrence of the Senate.

The bills last brought up for concurrence were read, and ordered to the second reading.

A message from the House of Representatives informed the Senate that the House have appointed a committee on their part, jointly with such committee as the Senate may appoint on their part, to consider and report what business is necessary to be done by Congress during the present session, and when it may be expedient to close the same; in which they request the concurrence of the Senate, and the appointment of a committee on their part.

The resolution was read, and passed to the second reading.

Mr. GILES presented the petition of Sarah Easton and Dorothy Jones, daughters and legal representatives of Robert Hanson Harrison, deceased, late Aid-de-Camp and Secretary to the Commander-in-Chief of the Revolutionary army of the United States, praying to be allowed the commutation of their father's half-pay, or a donation of lands, for reasons stated at large in the petition; which was read.

NON-INTERCOURSE.

The Senate resumed the consideration of the report of the managers at the conference on their part, on the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes."

On motion, by Mr. ANDERSON, that the Senate adhere to their amendments to the said bill, a motion was made, by Mr. LEIB, to postpone the further consideration thereof until Monday next; which was determined in the negative—yeas 15, nays 18, as follows:

YEAS—Messrs. Anderson, Brent, Campbell, Condit, Gaillard, Giles, Lambert, Leib, Mathewson, Meigs, Parker, Robinson, Smith of Maryland, Sumter, and Whiteside.

NAYS—Messrs. Bayard, Bradley, Champlin, Clay, Crawford, Franklin, German, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lloyd, Pickering, Pope, Smith of New York, Tait, and Turner.

On motion, by Mr. CLAY, to postpone the further consideration thereof until to-morrow, it was determined in the negative. And the question recurring on the original motion—

Mr. S. SMITH said: Mr. President, the question before the Senate is, to adhere to their amendments made to the bill "respecting the commercial intercourse between the United States and Great Britain and France."

It is with extreme reluctance that I rise on the present occasion. I feel, sensibly feel, the situation in which I place myself by opposing a measure countenanced by the vote in the other House, of almost all those with whom I have been accustomed to act, and by many in the Senate, for whose superior judgment and correct opinions I have ever had the highest respect. Finding, however, that I differed with those gentlemen, I took the bill to my lodgings, and considered it with a disposition to find in it something that should induce me to give up my own opinion to that expressed by the vote in the other House; but I looked in vain, and I found myself compelled to take the ground of opposition to the bill. In doing this, I must hope for the indulgence of those with whom I differ, and of the Senate, for detailing the reasons for the motion I made to amend the bill. To do this, it may not be unprofitable to take a review of the causes that led to the measures adopted by the United States, and the course taken by Congress to resist the injuries imposed upon us by Great Britain and France.

The insult offered to the honor of the nation in the affair of the Chesapeake, so far from being redressed, was heightened by a proclamation from the King of Great Britain, authorizing publicly, in the face of the world, the boarding of our merchant ships, and taking therefrom whomsoever their officers should call a British subject; to palliate this outrage on our independence, it was recommended to the boarding officer to execute this indignity with politeness. About the same time the Government was informed of the case of the *Horizon*, condemned under the Berlin decree, and that the Emperor had determined that that decree should embrace Americans as well as other neutrals. This determination was directly contrary to the assurance given General Armstrong, by the French Minister of Marine, as well as to the practice under the decree. This was the first intimation given to our Government that the Berlin decree would operate on the interest of the United States.

The President (as was his duty) laid both of those subjects before Congress in a Message, and it was well known at the same time, (although

not officially,) that the British Order of Council of November had been issued.

What was then our situation with those nations? France had declared every American vessel that was bound to or from Great Britain, or having on board goods, the produce or manufacture of Great Britain, to be lawful prize. Great Britain declared that every American vessel bound to any port of Europe, should first come into her ports, there land her cargo, pay a transit duty, and depart (if they pleased) to their original port of destination; and any vessel failing to do so, should be liable to condemnation; that any American vessel having a certificate of origin on board, should be considered good prize. Thus situated, we had a choice of war or embargo. To make war on France would have been idle; we could inflict no wound on her by war, except that of withholding our supplies from her West and East India colonies, and this would as effectually be done by an embargo. In a war with England, we could inflict severe wounds on her immense commerce, and she is always vulnerable on the side of Canada. A more pacific system was however adopted—the *embargo*. Had that measure been rigidly enforced, it could not have failed to have compelled a removal of the unjust conduct of those nations, most certainly of that of Great Britain. The Senate, aware that a measure of that kind could not be enforced without a physical force, sensible that the prospect of profit would induce many to prevent its intended operations by evasions, did immediately pass a bill authorizing the President to fit out and put to sea all the armed vessels of the United States, for the purpose of preventing evasions of the law, to employ our seamen who were thrown idle, and to be prepared for events should a war ensue. The bill slept in the other House, and, by an ill-timed economy, was ultimately rejected, by which a free scope was given to evaders of the law, and the system (which was a wise one) was in some degree frustrated; yet it had an effect highly salutary on Great Britain, it compelled her to modify the Orders of Council of November, and no longer were our ships compelled to go into her ports, and there pay tribute; no longer were our vessels subjected to condemnation for having a certificate of origin on board. The embargo was severely felt by Great Britain while in force, every article which they had been accustomed to receive from us, rose immediately in price, and I am confident that had it been continued and executed, full satisfaction would have been given by Britain for the various outrages which had been committed on our honor and independence. It was relinquished, and a non-intercourse was substituted as to both nations. This measure, although less strong, was such as would have been very severely felt by the British nation. It completely excluded the importation of her manufactures into the United States; it took from her a market for more than one-half of her manufactures; it turned idle a large number of workmen, and although it did not prevent her from getting our productions, yet she obtained them in

such a way, that they cost her, in some instances, double their usual price. This new system was however checked in its course by the arrangement made with Great Britain through Mr. Erskine. Our ports were thrown open, and our vessels (then nearly all in our harbors) soon filled Great Britain with everything she wanted at low prices; flour fell instantly in England to nine and a half and ten dollars the barrel.

Great Britain, in lieu of the Orders of Council, excluded us from France and Holland, and their colonies, and from Italy, by a paper blockade; an iniquitous, illegal system, which she had adopted in 1793, and has either contracted or extended at her pleasure ever since. Our own law excluded us from France and Italy. This tended to give a direction to a great proportion of our trade to Great Britain, and thereby completely supplied her wants. On the disavowal of Mr. Erskine's arrangement, the non-intercourse was renewed, and a stop put to our exports to Great Britain; the consequence was, that flour rose immediately to fourteen and fifteen dollars in England; cotton, tobacco, and other articles, in a proportion still greater. I mention this to show, that whenever we stop our trade to Great Britain she feels it sensibly in the high prices she has to give for our exports, and thus to show the efficacy of the system that had been taken, if it had been duly executed. But in her exports Great Britain felt little, for our merchants had given their orders under the arrangement, and it would have been unjust to have prevented them from receiving the goods they had ordered; the non-importation part, which I conceive the most essential part of the non-intercourse, had in consequence been inoperative.

What, then, was our situation when Congress met? The French privateers were capturing our defenceless merchant ships, burning those of little value, and carrying into their ports for condemnation those which were valuable. Great Britain had, by a pretended blockade, excluded us from entering the ports of Holland, France, Italy, and their West and East India colonies. She had sent a Minister to succeed Mr. Erskine, who, so far from offering any explanations on the disavowal of the arrangement made with his predecessor, added insult to injury, and bearded us to our teeth; he gave us to understand that the terms proposed in the instructions to Mr. Erskine would be insisted on—terms that I am confident no citizen of the United States would accede to.

In this state of our foreign relations Congress met, the members brought with them the feelings of the people, who were all alive to the late indignity offered their Government, all expected that measures of energy would be pursued. This House felt and acted. Resolutions passed almost unanimously, expressive of their sense of the insult offered by the British Minister.

The Senate passed a bill ordering the whole of the vessels of war to be put in commission (which bill sleeps still in the other House,) and were progressing in preparations for the defence of the

MARCH, 1810.

Non-Intercourse.

SENATE.

honor and safety of the nation, when the bill now under consideration was reported by the Committee of Foreign Relations. It operated instantly like an electric shock, it paralyzed every effort, and gentlemen were astonished when they were told, that this bill was the great measure that was to preserve our honor in the eyes of all the world; that it was the grand panacea which was to heal the wounds that had been inflicted on our rights by the belligerents. In fact, it was the only measure on which we were to rely for a redress of all our grievances.

Mr. President, I read this grand effort with attention. In vain did I look for something therein that would tend to obtain satisfaction for the insult on the Chesapeake; in vain for anything that would tend to prevent the future impressment of our seamen; in vain for anything that would induce or coerce the belligerents to repeal their unjust orders and decrees against our lawful commerce. One great feature, and one only, was to be discovered, to wit: the repeal of the non-intercourse law—covered by a thin veil, composed, as the gentleman from Kentucky (Mr. CLAY) has said, of shreds and patches. Not so, Mr. President; if it had been patchwork alone, I should not have disturbed its arrangement. But I found in it, or believed I did, that which would be ruinous to the commerce of the United States, and therefore felt myself bound by the duty I owe to my constituents to remove the veil, and leave the measure open to public view; the Senate concurred with me in opinion, to wit: to strike out the injurious sections, to which opinion I shall vote to adhere.

I will, Mr. President, ask the Senate's indulgence, to show my view of the sections that have been stricken out of the bill. The important ones are the third, fourth, and fifth; the others are only calculated to carry those into execution. The third and fourth contain the same principles; they appear to be intended to have a twofold operation, the one to coerce the belligerents to do us justice, the other, to secure to our own ships the carriage of all the produce of the United States. The third section excludes from our ports all British and French merchant ships, and declares "that any ship sailing under the flag of either, which shall hereafter arrive in any of our harbors, shall, with their cargoes, be seized and condemned."

Is there no danger, Mr. President, to be apprehended from the Emperor, if the bill should pass with this provision? His character for decision is well known. Might we not fear that he would retort our own measure upon us, by causing all the property of our merchants now under sequestration (amounting to at least three millions of dollars) to be condemned; and by seizing all the American vessels and property in his ports, or that might arrive therein? I confess, sir, I should feel no surprise if he did. It appears to me, from his well known conduct, that he would scarcely hesitate to adopt such a measure, and what right would you have to complain, and for what object would such a risk be run? The section only pro-

hibits the entry of French merchant ships into our ports—prohibits what? That which has no existence—for there is scarcely a French merchant ship that now floats the ocean. The section permits our own ships to carry to France. It throws open our trade to France, in the only way that it can be carried on, to wit, in our own vessels, and thus invites them to go to France, and there be subject to any consequences which the Emperor (in resenting the provision of that section) might choose to decree. It in no way inflicts a punishment on France for her aggressions on our honor and interest.

But what will England do should this law pass? Will the King and Council retaliate our measure? I confess, Mr. President, that I think they will. What right shall we have to complain, if a seizure is ordered in the ports of Great Britain of every American vessel found therein? I have been told that the magnanimity of Great Britain is full security against such conduct, and that the words of this bill would not justify her. I admit it, but I must be excused for not placing implicit reliance in her justice or her magnanimity. I fear that she would not tie herself down to the letter of our law in the retaliation she would inflict; but admitting that she did, this bill permits an open trade to her ports in our ships; an immense number of our vessels are ready to proceed to her ports the moment this bill shall pass into a law: and, sir, the law will get to England as soon as our ships, with their valuable cargoes; a day is sufficient for the King and Council to act; an order may, and I do not doubt would issue, perhaps, in the very words of the bill, "directing the seizure and condemnation of every American vessel and their cargoes that shall arrive in her ports." What would be the consequence? Ruin to your merchants, and destruction to the party which now governs this country. But, Mr. President, let us suppose that the King should not order the condemnation of our ships, yet he would have it in his power to wound us severely, by simply arresting all the American ships and cargoes in his ports, and holding them as a security for any of the ships of his subjects that we should condemn under our law; he would thus place in his power from three to four hundred thousand tons of shipping and their cargoes; such a step would bring down certain ruin on our merchants, and would be a most powerful machine in his hands to compel our Government to such measures as his Ministry might dictate. What Administration could stand the hue and cry that would be raised against them by the sufferers and their friends? All would understand that the wrong was *on our side*; all would be taught to know that our own law had only been retorted upon us, and all must agree that we had no right to complain. We should lose the high ground we now stand on, that of opposition to the unjust and oppressive measures of the belligerents, and be compelled to admit that we were the aggressors, thus departing from being defenders of right to become the wrong-doers. And for what, Mr. President? For the paltry consideration of pre-

venting British shipping to an amount not exceeding eight thousand tons from entering our ports, and from becoming the carriers of our produce to that amount; for that is the only injury the bill proposes to inflict on the British Government for all her spoiliations, insults, and injuries. The fourth section confines the importation of French and British goods to our own vessels. The third and fourth sections form one great whole, the object of which is to coerce Great Britain and France to do us justice. How?—by prohibiting all commerce with them? No, by preventing them from the carrying any of our produce, or bringing into our ports any of their manufactures in their ships. And this measure is to coerce Great Britain and France! What are its coercive powers? None, certainly; none upon France, for she has no merchant ships; of course it can have no coercive influence upon her. It certainly has no persuasive qualities. We throw out provocation without a motive, as it relates to France; already we have the whole carrying trade between the United States and France, and her colonies; this bill could not give us more. But, Mr. President, gentlemen who have voted for this bill may have thought that it will operate powerfully against Great Britain. Let us examine that point. If I recollect correctly, there did enter the ports of the United States on the average of the three years prior to the embargo, about eight thousand tons of British shipping. To exclude the participation in the carrying trade between Great Britain and the United States to that amount, is the great good that is to result to the United States from the third and fourth sections, to obtain which, we are to risk the retaliation of Great Britain. Should she take the words of our own law and prohibit our vessels from her ports, what we should suffer thereby is a question worthy of consideration. I have little doubt that three to four hundred thousand tons of ships of the United States annually enter the ports of Great Britain. We should then risk by this law the employment of four hundred thousand tons of shipping; to obtain what? The employment of eight thousand tons now occupied by British ships—what extreme folly! What madness! Would any man run such a risk on his private account?

It is, Mr. President, the old story of the goose with the golden eggs. In attempting to seize on a little, we risk the loss of a great whole. Having taken this view of the subject, I had believed that imperious duty compelled me to endeavor to avert such great evil. But I have been told, that if Great Britain should retaliate, that her retaliation would operate as a complete non-intercourse or embargo between the two countries, and in a way that would be effectual; and that as I had always approved those measures, this view of the subject must meet my approbation; that it would precisely create that which I have said was a powerful measure against Great Britain—to wit: an embargo. I never will agree, Mr. President, in this side way to carry into execution a great national measure. If we could not execute our

law by our own means, I will not, by a subterfuge attempt to call in the aid of the nation against which the measure was directed. I will not lose the right side of the question, and put myself in the wrong. The people were impatient under the embargo, and you repealed it. Yes, sir, it was repealed at the very moment when Great Britain, smarting under its effects, was modifying her Orders of Council; and she would have done us complete justice but for the wavering indecisive conduct that she saw we were pursuing. Seeing that, and encouraged by the support her measures met in the United States, she modified her orders and substituted her blockading order of April, 1809. Should this bill pass and another embargo be created thereby between the two nations, how will the people then feel? When the embargo was laid to compel a redress of wrongs, it created uneasiness among many, but was highly approved by most of the people; but should our commerce be again shut up through this bill, the veil will be seen through; the covering is too thin, and all will see that our own act was the leading cause; that on the part of Great Britain it is fair retaliation, provoked by ourselves; that in justice to her subjects she could not do less. You will then appear the aggressor. You will have left the high ground of being the defender against acts of injustice, and place yourselves before your fellow-citizens as the wrong-doer. You will forfeit that character for impartial justice to which we have now a just claim, and I fear, Mr. President, that it would deprive the Administration of their well-earned popularity. But I believe that the measure would have a very different tendency; that it would throw the carrying of our produce to Great Britain and her possessions entirely in British hands, which I shall try to show to the Senate before I sit down. The fifth section is intended to operate in the expectation that Great Britain and France would retaliate. It prohibits the importation from those nations of their goods, except direct from the place where they are produced or manufactured, and it is intended to prevent Great Britain from introducing her produce or manufactures into the United States, by placing them at Amelia Island, at Nova Scotia, or Canada, or in any neutral country. Should Great Britain retaliate, (which is expected by this section of the bill,) how will the bill operate? In the following manner: the bill repeals the non-intercourse law; of course our ships are free to go with our produce wheresoever they please. But Great Britain, it is presumed, will prohibit their entrance into her ports generally; still she wants our exports. How will she get them? By throwing open Canada, Nova Scotia, Bermuda, and Amelia Island, to our trade, our coasters will carry to those ports our cotton, tobacco, flour, &c., and from thence they will be carried in British ships; thus will our ship owners be deprived of their present valuable employment for their ships. Equally injurious will it be to the agricultural interest, for at those places their produce will meet with a confined market, and the prices they will obtain will be

in proportion to the difficulties of such a course of trade, and to the little competition in such markets.

The manufactures of Great Britain will be brought to those places, and the prices in the United States will be such, that no risk of seizure will prevent them from being purchased and smuggled into the United States, to the ruin of your finances, the great injury of the honest merchant, and the destruction of the morals of the people. And all this risk we are to run with the sole view of employing eight thousand tons of shipping more than we now employ; for, sir, there is not another motive held out in the bill; and to add ridicule to injury, we, in the tenth section, authorize the President to repeal this terrible measure, provided the belligerents shall withdraw their hostile orders and decrees. Why, sir, we should by this bill hold ourselves up to the two nations as objects to be laughed at. When our embargo and non-intercourse did not obtain for us justice, can any man believe for a moment that this measure can operate any effect favorable to our interest?

I am averse, Mr. President, to a commercial warfare with Great Britain; in such a war we shall always be the sufferer. The King and Council can, in one session of a single day, do an act which it would take Congress a month or two to meet. We have had some experience on the subject. Soon after the adoption of the Constitution, discriminating duties were laid, which operated rapidly to increase the shipping of the United States. It soon called the attention of Great Britain, and in the treaty made by Mr. Jay, they provided against its increase, and were authorized to countervail its effects; they did countervail, and secured to themselves (in times of peace) the carrying (for their consumption and commerce) of all the tobacco they required, and nearly all the other produce of the United States. As they increase their duties, their countervail of ten per cent. also increases; this increase has so operated on the article of cotton, that should peace take place in Europe, every pound of that important article wanted for Great Britain, would be carried in British ships. I am, therefore, of opinion, that we should, as soon as possible, agree with Great Britain to relinquish our discriminating duties on condition that she would repeal her countervailing duties. Let the ships of each enter the ports of the other on terms of perfect equality. I am not afraid of the competition; I feel confident that we can meet any nation on equal terms in the carrying of the produce of our own country; if we cannot, we do not deserve the preference. With this precedent in my view, I am not willing again to enter into a commercial warfare with Great Britain or France, for France has countervailed our discriminating duty on the article of tobacco, which will (when she again enters into trade) give to her ships the carrying of all that article wanted for her consumption, being near forty thousand hogsheads annually, and she will no doubt pursue the system as to cotton and other articles.

I have been asked, shall Congress rise and do nothing? I answer, that it is better to do nothing than to do that which will only injure ourselves. But, sir, I wished to do something; I proposed, in select committee, to strike out those sections which would only do us injury, and then fill their place with sections (which I had draughted and presented for consideration) authorizing the arming of the merchant ships, not for defence alone, but with authority to capture and make prize of any vessel that might assail them while engaged in lawful commerce, and to employ the public ships of war in conveying the trade of the nation. I met with no support in this system; there were in committee four against my motion. Discouraged by so large a proportion voting against me, I neglected, or was deterred from making the same motion in Senate, and this error I regret, although I know not whether I should have been more successful in Senate than I had been in committee; but I should have been better pleased with my own conduct. I had, it is true, an expectation that, in a committee of conference between the two Houses, that something might be introduced that would please both branches of the Legislature; and I presumed that the convoy system would be substituted. I have been mistaken. The conferees met, and the committee of Senate submitted a section, "authorizing the President, under his instructions, made conformably to the laws of nations, to grant convoy to the merchant ships of the United States engaged in lawful commerce." That proposition spoke this language to the belligerents: The United States have taken every pacific means of obtaining justice from you without success. We will no longer deprive ourselves of commerce; we will open our trade, and we will defend it. We are ready to meet the consequences that may arise, and will stand prepared for war, if war shall ensue. This, Mr. President, appeared to your committee as a course that would be honorable to the nation. It was unanimously rejected by the committee on the part of the House, who, in turn, proposed that "British ships should be permitted to bring into the United States the produce and manufactures of that nation, but should not be permitted to carry from the United States any of the produce thereof," and the same as to France. This most extraordinary proposition was unanimously rejected by the conferees on the part of the Senate. Strip the proposition, and what language does it speak? That the British merchant may send into your ports his ships and fill your market with British goods, to the great injury of your infant manufactories; he may enter into competition with them and work their destruction. But he must not enter into competition with the merchants in the purchase of a return cargo, nor with the ship owners in the carrying of the produce of the country. No, sir, that was hallowed ground, and must not be trodden. The conferees of the two Houses could not agree, and the question now before the Senate is, to adhere to their amendments. For which I shall vote,

SENATE.

Proceedings.

MARCH, 1810.

although the bill will then not be such as I wish it had been. But, sir, it cannot in this stage be amended. I am aware that my vote will be disapproved by many of my friends. But, sir, I trust that time, and a further consideration of the subject, will convince them that my objections to the rejected sections have not been unfounded.

The question being then taken that the Senate adhere to their amendments, it was determined in the affirmative—yeas 17, nays 15, as follows:

YEAS—Messrs. Anderson, Bayard, Champlin, Gaillard, German, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Leib, Lloyd, Parker, Pickering, Smith of Maryland, Sumter, and Whiteside.

NAYS—Messrs. Bradley, Brent, Campbell, Clay, Condit, Crawford, Franklin, Giles, Lambert, Mathewson, Meigs, Pope, Smith of New York, Tait, and Turner.

TUESDAY, March 20.

The bill, entitled "An act regulating the Post Office Establishment," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. FRANKLIN, ANDERSON, GOODRICH, GREGG, and MEIGS, were appointed the committee.

The bill entitled "An act for the relief of Elizabeth Hamilton," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. CRAWFORD, BRADLEY, and FRANKLIN, were appointed the committee.

The bill, entitled "An act for the relief of Amey Dardin, widow and representative of David Dardin, deceased," was read the second time, and referred to a select committee to consider and report thereon; and Messrs. BRADLEY, GILES, and HILLHOUSE, were appointed the committee.

The resolution of the House of Representatives for the appointment of a joint committee to consider and report the business necessary to be acted on during the present session, and when it may be expedient to close the same, was read the second time, and passed to a third reading.

The Senate resumed the consideration of the amendment of the House of Representatives on the amendment of the Senate to the bill, entitled "An act to prevent the issuing of sea-letters, except to certain vessels;" and agreed thereto, with amendments.

Mr. LLOYD, from the committee to whom was referred the bill, entitled "An act to make public a road in Washington county, in the District of Columbia," reported it with amendments, which were read.

The Senate resumed, as in Committee of the Whole, the bill for the improvement of the United States, by public roads and canals; and, after progress, a motion was made by Mr. BRADLEY, to postpone the further consideration thereof to the first Monday in December next; which was determined in the negative—yeas 11, nays 19, as follows:

YEAS—Messrs. Bradley, Champlin, Condit, Gilman, Goodrich, Hillhouse, Lambert, Mathewson, Pickering, Robinson, and Turner.

NAYS—Messrs. Anderson, Bayard, Brent, Campbell, Clay, Crawford, Franklin, Gaillard, German, Gregg, Horsey, Leib, Meigs, Pope, Smith of Maryland, Smith of New York, Sumter, Tait, and Whiteside.

Mr. POPE, from the conferees on the part of the Senate, on the bill, entitled an act providing for the third census or enumeration of the inhabitants of the United States," made report: Whereupon,

Resolved, That the Senate recede from their second, sixth, and seventh amendments; that the Senate recede from the fourth amendment with an amendment, to wit: strike out "January," and insert "March."

WEDNESDAY, March 21.

The following Message was yesterday received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I lay before Congress a return of the militia of the United States, as received by the Department of War, from the several States and Territories.

MARCH 20, 1810.

JAMES MADISON.

Ordered, That the Message and documents lie for consideration.

On motion, by Mr. GILES,

Ordered, That the petition of Sarah Easton and Dorothy Jones, daughters of Robert H. Harrison, Esq., deceased, be referred to the committee who have under consideration the bill, entitled "An act for the relief of Elizabeth Hamilton;" to consider and report thereon.

Mr. BRENT presented the petition of Fontaine Maury of the city of New York, praying the benefit of drawback on three hundred and eighty bags of coffee, although the formalities of the laws (with no intention of fraud, however, but from the ignorance of the captain) have not been complied with, as is stated in the petition; which was read, and referred to a select committee, to consider and report thereon; and Messrs. BRENT, GAILLARD, and GREGG, were appointed the committee.

Mr. B., also, presented the petition of George Andrews and others, inhabitants of the District of Columbia, praying Congress to empower them to form a company for making a turnpike road from the termination of Vermont avenue to a point where it shall intersect the boundary line of the District; and the petition was read, and referred to a select committee, to consider and report thereon; and Messrs. BRENT, CONDIT, and MATHEWSON, were appointed the committee.

Mr. B. also presented the petition of Urban Guillet and his associates, known under the name of "The Society of La Trappe," now resident in the Illinois Territory, stating that their association has for its peculiar object the promotion of useful literature, husbandry, and mechanical arts, and praying confirmation of the title to certain parcels of land mentioned in the petition; which was read, and referred to a select committee, to consider and report thereon; and Messrs. BRENT, GILES, and GREGG, were appointed the committee.

MARCH, 1810.

Proceedings.

SENATE.

The resolution of the House of Representatives for the appointment of a joint committee to consider and report the business necessary to be acted on during the present session, and when it may be expedient to close the same, was read the third time, and agreed to; and Messrs. GREGG, CRAWFORD, CLAY, FRANKLIN, and ANDERSON, were appointed the committee on the part of the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing a detachment from the militia of the United States," in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill for the improvement of the United States by public roads and canals; and the President having reported the bill to the House amended, a motion was made by Mr. LEIB to strike out the first and second articles of the bill, authorizing the subscription of the United States to the stock of the Massachusetts and New Jersey companies, when formed; and Mr. ANDERSON called for a division of the question, and it was taken on striking out the first article, authorizing the subscription to the Massachusetts company, and determined in the negative—yeas 11, nays 19, as follows:

YEAS—Messrs. Campbell, Clay, Condit, Crawford, Gaillard, Giles, Gregg, Leib, Meigs, Sumter, and Turner.

NAYS—Messrs. Anderson, Bayard, Champlin, Franklin, German, Gilman, Goodrich, Hillhouse, Horsey, Lambert, Lloyd, Mathewson, Pickering, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, and Whiteside.

On the question, to strike out the second article, authorizing the subscription to the New Jersey Company: it was determined in the negative—yeas 7, nays 23, as follows:

YEAS—Messrs. Campbell, Clay, Giles, Gregg, Leib, Meigs, and Turner.

NAYS—Messrs. Anderson, Bayard, Champlin, Condit, Crawford, Franklin, Gaillard, German, Gilman, Goodrich, Hillhouse, Horsey, Lambert, Lloyd, Mathewson, Pickering, Pope, Robinson, Smith of Maryland, Smith of New York, Sumter, Tait, and Whiteside.

On motion, by Mr. GILES, to postpone the further consideration of the bill to the first Monday in December next: it was determined in the affirmative—yeas 18, nays 11, as follows:

YEAS—Messrs. Champlin, Condit, Crawford, Franklin, Gaillard, Giles, Gilman, Goodrich, Hillhouse, Lambert, Leib, Lloyd, Mathewson, Pickering, Robinson, Smith of Maryland, Sumter, and Turner.

NAYS—Messrs. Anderson, Bayard, Clay, German, Gregg, Horsey, Meigs, Pope, Smith of New York, Tait, and Whiteside.

Mr. BAYARD gave notice that to-morrow he should ask leave to bring in a bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal

Company; also, a bill to amend the laws within the District of Columbia.

Mr. POPE submitted the following motion:

Resolved, That so much of the report of the Secretary of the Treasury, respecting roads and canals, as relates to the Ohio Canal, be referred to a select committee, with leave to report by bill or otherwise.

And on motion, the Senate adjourned.

THURSDAY, March 22.

Mr. BAYARD asked and obtained leave to bring in a bill authorizing the sale and grant of a quantity of public land to the Chesapeake and Delaware Canal Company; and the bill was read and passed to the second reading.

Mr. BAYARD asked and obtained leave to bring in a bill to amend the laws within the District of Columbia; and the bill was read and passed to the second reading.

The Senate resumed the motion made yesterday "That so much of the report of the Secretary of the Treasury, respecting roads and canals, as relates to the Ohio Canal, be referred to a select committee, with leave to report by bill or otherwise;" and, having agreed thereto, Messrs. POPE, BAYARD, and BRADLEY, were appointed the committee.

The bill, entitled "An act authorizing a detachment from the militia of the United States," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BRADLEY, SUMTER, and BAYARD, were appointed the committee.

On motion, by Mr. BRADLEY,

Resolved, That the President of the United States be requested to cause to be laid before the Senate the whole of the correspondence between the United States and Jared Shattuck, or any agent acting for him, or in his behalf, in respect to Lieutenant Maley's detaining the ship *Mercator*, in the year 1800, and in relation to the judicial investigation that was afterwards suggested, and the stipulations that a final decree should not involve the question whether the United States are responsible.

Ordered, That the Secretary lay this resolution before the President of the United States.

The Senate resumed, as in Committee of the Whole, the bill granting a right of pre-emption to purchasers of public lands in certain cases, together with the report of the select committee thereon; and, after debate, on motion, by Mr. CLAY, it was recommitted to a select committee, further to consider and report thereon; and Messrs. CLAY, BRADLEY, and LEIB, were appointed the select committee.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to make public a road in Washington county, in the District of Columbia," together with the report of the select committee thereon; and having agreed thereto, the President reported the bill to the House amended accordingly. On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

The following motion was submitted by Mr. WHITESIDE :

Resolved, That a committee be appointed to inquire whether any further and what provision should be made for the relief of persons imprisoned on process issued from the courts of the United States in civil cases, and that they have leave to report by bill or otherwise.

Mr. GILES, from the committee to whom was recommended the bill for the establishment of a quartermaster's department, reported it with amendments; which were read.

The Senate resumed, as in Committee of the Whole, the bill to alter and amend the act, entitled "An act fixing the Military Peace Establishment of the United States."

NATIONAL BANK.

Mr. BAYARD, from the committee appointed on the subject the thirteenth instant, reported a bill making provision for the establishment of a National Bank; and the bill was read, and passed to the second reading. The bill is as follows :

A bill making provision for the establishment of a National Bank.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That a Bank of the United States shall be established, the capital stock whereof shall not exceed twenty millions of dollars, divided into fifty thousand shares, each share being four hundred dollars. And that subscriptions towards constituting the said stock shall, on the first Monday of October next, be opened at Portsmouth, in the State of New Hampshire, for eight hundred and sixty-seven shares; at Boston, in the State of Massachusetts, for two thousand nine hundred and fifty shares; at —, in the State of Connecticut, for one thousand two hundred and fifteen shares; at Providence, in the State of Rhode Island, for three hundred and forty-seven shares; at —, in the State of Vermont, for six hundred and ninety-four shares; at —, in the State of New York, for two thousand nine hundred and fifty shares; at Trenton, in the State of New Jersey, for one thousand and forty-five shares; at Philadelphia, in the State of Pennsylvania, for three thousand one hundred and twenty-five shares; at Dover, in the State of Delaware, for three hundred and forty-seven shares; at Baltimore, in the State of Maryland, for one thousand five hundred and sixty-two shares; at Richmond, in the State of Virginia, for three thousand eight hundred and twenty shares; at Raleigh, in the State of North Carolina, for two thousand and eighty-two shares; at Charleston, in the State of South Carolina, for one thousand three hundred and eighty-eight shares; at Milledgeville, in the State of Georgia, for six hundred and ninety-four shares; at Lexington, in the State of Kentucky, for one thousand and forty-five shares; at Knoxville, in the State of Tennessee, for five hundred and twenty-two shares; and at —, in the State of Ohio, for three hundred and forty-seven shares; under the superintendence in each State of such persons, not less than three, as shall be appointed for that purpose by the President of the United States, (who is hereby authorized to appoint the said persons accordingly,) which subscriptions shall continue open until the whole of the said stock shall have been subscribed.

SEC. 2. *And be it further enacted*, That it shall be

lawful for any person, being a citizen of the United States, or of the Territories thereof, copartnership composed of such person or body politic, incorporated within the United States, to subscribe for so many shares as he, she, or they shall think fit, not exceeding one thousand, except as shall hereafter be provided in relation to the United States, and the States respectively; and that the sums respectively subscribed, except on behalf of the United States, and the respective States, shall be payable in gold or silver, and shall be payable in four equal instalments, at the distance of six calendar months from each other; the first whereof shall be paid at the time of subscription.

SEC. 3. *And be it further enacted*, That all those who shall become subscribers to the said bank, their successors and assigns, shall be, and are hereby, created and made a corporation and body politic, by the name and style of the President, Directors, and Company of the Bank of the United States, and shall so continue until the fourth day of March, in the year of our Lord one thousand eight hundred and fifty; and by that name shall be, and are hereby, made able and capable in law to have, purchase, receive, possess, enjoy, and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, of what kind, nature, or quality soever, to an amount not exceeding in the whole thirty millions of dollars, including the amount of the capital stock aforesaid; and the same to sell, grant, demise, alien, or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatsoever. And, also, to make, have, and use, a common seal, and the same to break, alter, and renew, at their pleasure; and, also, to ordain, establish, and put in execution such by-laws, ordinances, and regulations, as shall seem necessary and convenient for the government of the said corporation, not being contrary to law, or to the Constitution thereof, (for which purpose general meetings of the stockholders shall and may be called by the directors, and in the manner hereinafter specified,) and generally to do and execute all and singular acts, matters, and things, which to them it shall or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

SEC. 4. *And be it further enacted*, That for the well-ordering of the affairs of the said corporation, there shall be twenty-five directors; for twenty of whom there shall be an election on the first Monday in January in each year, by the stockholders or proprietors of the capital stock of the said corporation, and by plurality of votes actually given, and five of whom shall be appointed as hereinafter provided; and those who shall be duly chosen at any election, and appointed as provided, shall be capable of serving as directors, by virtue of such choice and appointment until the end or expiration of the Monday in January next ensuing the time of such election, and no longer. And the said directors, at their first meeting after each election, shall choose one of their numbers as president.

SEC. 5. *And be it further enacted*, That, at the expiration of twenty days after the opening of the said subscriptions, it shall be the duty of the persons having the superintendence of the same to transmit an account to the Secretary of the Treasury of the amount of subscriptions upon their books respectively, and of the moneys actually paid on account of such subscriptions, and as soon as it shall appear to him that the

MARCH, 1810.

National Bank.

SENATE.

sum of four millions of dollars have been actually received on account of subscriptions to said stock, he shall cause due public notice thereof to be given, and he shall at the same time in like manner notify a time and place within the city of Philadelphia, at the distance of sixty days from the time of such notification, for proceeding to the election of twenty directors; and it shall be lawful for such election to be then and there made; and the persons who shall be then and there chosen, together with five directors to be appointed by the Commissioners of the Sinking Fund for the time being, (who, or a majority of them, are hereby empowered to make such appointment at any due and convenient time,) shall be the first directors, and shall be capable of serving, by virtue of such choice and appointment, until the end or expiration of the Monday in January next ensuing the time of making the same, and shall forthwith thereafter commence the operations of the said bank at the said city of Philadelphia: *Provided*, That in case it should at any time happen that an election or appointment of directors should not be made, upon any day when, pursuant to this act, it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day to hold or make an election or appointment of directors in such manner as shall have been regulated by the laws and ordinances of the said corporation, not inconsistent with this act: *And provided further*, That in case of the death, resignation, absence from the United States, or the removal of a director by the stockholders of one of those chosen by them, or of the death, resignation, absence from the United States, or the removal of a director by a majority of the Commissioners of the Sinking Fund of one of those appointed by them, his place may be filled up by a new choice or appointment (as the case may be) for the remainder of the year.

Sec. 6. *And be it further enacted*, That the directors for the time being shall have power to appoint such officers, clerks, and servants under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services respectively as shall be reasonable; and shall be capable of exercising such other powers and authorities, for the well-governing and ordering of the affairs of the said corporation, as shall be described, fixed, and determined by the laws, regulations, and ordinances, of the same.

Sec. 7. *And be it further enacted*, That the following restrictions, limitations, and provisions, shall form and be fundamental articles of the constitution of the said corporation, viz:

1. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he shall hold, in the proportions following, that is to say: For one share, and not more than two, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote. But no person, copartnership or body politic, shall be entitled to a greater number than thirty votes, except in relation to the stock subscribed by the respective States, in which case the number of votes in the ratio aforesaid shall be limited to one hundred. And after the first election, no share or shares shall confer a right of suffrage, which shall not have

been holden three calendar months previous to the day of election. Stockholders actually resident within the United States, and none other, may vote in elections by proxy.

2. Not more than three-fourths of the directors in office chosen by the stockholders, nor more than three-fifths of those appointed by the Commissioners of the Sinking Fund, the president excepted, shall be eligible or capable of appointment for the next succeeding year. But the director who shall be president at the time of an election, may always be re-elected or re-appointed as the case may be.

3. None but a stockholder, being the owner of five shares, and being a citizen of the United States, and resident therein, shall be capable of being chosen or appointed as a director.

4. No director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders at a general meeting. The stockholders shall make such compensation to the president for his extraordinary attendance at the bank, as shall appear to them reasonable.

5. Not less than seven directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness, or necessary absence; in which case his place may be supplied by any other director whom he, by writing under his name, shall nominate for the purpose.

6. A number of stockholders, not less than sixty, who, together, shall be proprietors of two hundred shares or upwards, shall have power at any time to call a general meeting of the stockholders, for the purposes relative to the institution, giving at least ten weeks notice in two public gazettes of the place where the bank is kept, and specifying in such notice the object or objects of such meeting.

7. Every cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with condition for his good behaviour.

8. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transaction of its business, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

9. The total amount of the debts, which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, shall not exceed the sum of twenty millions of dollars, over and above the moneys then actually deposited in the bank for safekeeping, unless the contracting of any greater debt shall have been previously authorized by a law of the United States. In case of excess, the directors, under whose administration it shall happen, shall be liable for the same, in their natural and private capacity; and an action of debt may in such case be brought against them, or any of them, their or any of their heirs, executors or administrators, in any court of record of the United States, or either of them, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution; any condition, covenant, or agreement, to the contrary notwithstanding. But this shall not be construed to exempt the said corporation, or the lands, tenements, goods or

chattels of the same, from being also liable for, and chargeable with, the said excess. Such of the said directors, who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act, whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders at a general meeting, which they shall have power to call for that purpose.

10. The said corporation shall not be at liberty to purchase any public debt whatsoever, nor shall directly or indirectly deal or trade in anything, except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or of goods which shall be the produce of its lands. Neither shall the said corporation take more than at the rate of six per centum per annum, for or upon loans or discounts.

11. No loan shall be made by the said corporation, for the use or on account of the Government of the United States, to an amount exceeding one hundred thousand dollars, or of any particular State to an amount exceeding fifty thousand dollars, or of any foreign Prince or State, unless previously authorized by a law of the United States.

12. The stock of the said corporation shall be assignable and transferable according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same; except the stock subscribed by the several States; which shall not be assignable or transferable either in law or equity.

13. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and of his, her, or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon, in his, her, or their own name or names. And bills or notes which may be issued by order of the corporation, signed by the president and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her, or their order, or to bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the same, in the like manner, and with the like force and effect, as upon any private person or persons, if issued by him or them, in his, her, or their private or natural capacity or capacities; and shall be assignable or negotiable, in like manner, as if they were so issued by such private person or persons: That is to say, those which shall be payable to any person or persons, his, her, or their order, shall be assignable by endorsement, in like manner, and with the like effect, as foreign bills of exchange now are; and those which are payable to bearer, shall be negotiable and assignable ^{or} delivery only.

14. Half-yearly dividends shall be made of so much of the profits of the bank, as shall appear to the directors as a dividend; and once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts, which shall have remained unpaid after the expiration of the original credit, for a period of twelve months the term of that credit; and of the

surplus of profit, if any, after deducting losses and dividends. If there shall be a failure in the payment of any part of any sum, subscribed by any person, co-partnership or body politic, except in case of the States who shall be respectively entitled to a dividend proportioned to the payment actually made by them, the party failing shall lose the benefit of any dividend which may have accrued, prior to the time of making such payment, or which may accrue while there be a default in payment of any part of the subscription money which is payable.

15. It shall be lawful for the directors aforesaid to establish offices wheresoever they shall think fit within the United States, or the Territories thereof, for the purpose of discount and deposit only, and upon the same terms, and in the same manner, as shall be practised at the bank, and to commit the management of the said offices, and the making the said discounts, to such persons under such agreements, and subject to such regulations, as they shall deem proper, not being contrary to law or the constitution of the bank. And it shall be the duty of the said directors to establish such offices of discount and deposit in each of the States respectively, the Legislature whereof may require the same to be done. And the Legislatures of the States respectively shall have a right to require of the said directors the establishment of an office aforesaid within the State, at such place as the directors may fix, with a capital not exceeding for the States respectively, the sum hereafter limited, that is to say: For the State of New Hampshire, two hundred thousand dollars; for the State of Massachusetts, seven hundred thousand dollars; for the State of Connecticut, two hundred and ninety thousand dollars; for the State of Rhode Island, two hundred thousand dollars; for the State of Vermont, one hundred and fifty thousand dollars; for the State of New York, seven hundred thousand dollars; for the State of New Jersey, two hundred and fifty thousand dollars; for the State of Delaware, one hundred thousand dollars; for the State of Maryland, five hundred thousand dollars; for the State of Virginia, eight hundred thousand dollars; for the State of North Carolina, five hundred thousand dollars; for the State of South Carolina, four hundred thousand dollars; for the State of Georgia, two hundred thousand dollars; for the State of Kentucky, two hundred and fifty thousand dollars; for the State of Tennessee, one hundred and fifty thousand dollars; and for the State of Ohio, two hundred thousand dollars.

16. The officer at the head of the Treasury Department of the United States shall be furnished, from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock of the said corporation, and of the debts due the same; of the moneys deposited therein; of the notes in circulation, and of cash in hand; and shall have a right to inspect such general accounts in the books of the bank, as shall relate to the said statements: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

SEC. 8. *And be it further enacted*, That if the said corporation, or any person or persons for or to the use of the same, shall deal or trade in buying or selling any goods, wares, or merchandise, or commodities whatsoever, contrary to the provisions of this act, all and every person and persons, by whom any order or direction for so dealing or trading shall have been

MARCH, 1810.

Munitions of War.

SENATE.

given, and all and every person or persons who shall have been concerned as parties or agents therein, shall forfeit and lose treble the value of the goods, wares, merchandise, and commodities, in which such dealing and trade shall have been, one-half thereof to the use of the informer, and the other half thereof to the use of the United States, to be recovered with costs of suit.

SEC. 9. *And be it further enacted*, That if the said corporation shall advance and lend any sum, for the use, or on account of, the Government of the United States, to an amount exceeding one hundred thousand dollars; or of any particular State to an amount exceeding fifty thousand dollars; or of any foreign Prince or State, (unless previously authorized thereto by a law of the United States,) all and every person and persons, by and with whose order, agreement, consent, approbation, or connivance, such unlawful advance or loan shall have been made, upon conviction thereof, shall forfeit and pay, for every such offence, treble the value or amount of the sum or sums which shall have been so unlawfully advanced or lent; one-fifth thereof to the use of the informer, and the residue thereof to the use of the United States, to be disposed of by law and not otherwise.

SEC. 10. *And be it further enacted*, That the bills or notes of the said corporation, originally made payable, or which shall have become payable on demand, in gold and silver coin, shall be receivable in all payments to the United States.

SEC. 11. *And be it further enacted*, That it shall be lawful for the President of the United States, at any time or times, within two years from the time of the passing of this act, to cause a subscription to be made to the stock of the said corporation, as part of the aforesaid capital stock of twenty millions of dollars, on behalf of the United States, to an amount not exceeding four millions of dollars, to be paid out of the moneys in the Treasury not otherwise appropriated, or which may be borrowed by virtue of this act; and it shall be lawful for the President to borrow from the said bank, for the purpose aforesaid, a sum or sums not exceeding in the whole four millions of dollars, which the said bank are hereby authorized to lend, reimbursable in ten years, by equal annual instalments, or at any time sooner, or in any greater proportion that the Government may think fit.

SEC. 12. *And be it further enacted*, That it shall be lawful for the Legislatures of the States, at any time or times within three —, to cause a subscription to be made to the stock of the said corporation, as part of the aforesaid capital stock of twenty millions of dollars, on behalf of the States, to an amount not exceeding six millions of dollars, to be appropriated among the States respectively as follows, that is to say:

The State of New Hampshire, five hundred and twenty shares; the State of Massachusetts, seven hundred and seventy shares; the State of Connecticut, seven hundred and thirty shares; the State of Rhode Island, two hundred and ten shares; the State of Vermont, four hundred and sixteen shares; the State of New York, seventeen hundred and seventy shares; the State of New Jersey, six hundred and twenty-five shares; the State of Pennsylvania, eighteen hundred and seventy-five shares; the State of Delaware, two hundred and ten shares; the State of Maryland, nine hundred shares; the State of Virginia, two thousand shares; the State of North Carolina, twelve hundred and fifty shares; the State of South Carolina,

eight hundred and thirty-three shares; the State of Georgia, four hundred and fifty-three shares; the State of Kentucky, six hundred and twenty-five shares; the State of Tennessee, four hundred and fifty-three shares; the State of Ohio, three hundred and sixty shares; which said subscription may, as the Legislatures of the States shall judge proper, be paid in any equal annual instalments within ten years; the first instalment to be paid at the time of subscribing, and the subsequent instalments at a distance of time not greater than one year from each other successively: *Provided*, That if any State shall decline or neglect subscribing within the period herein limited, or neglect to pay the whole amount of its subscriptions within ten years from the time of subscribing, in such case it shall be lawful for the United States to dispose of, or make any regulations they may judge proper in respect to any shares not subscribed, or any instalment remaining unpaid.

SEC. 13. *And be it further enacted*, That the bank herein provided for, shall take effect and be established on the fourth day of March next; and that no other bank shall be established by any future law of the United States, during the continuance of the corporation hereby created; for which the faith of the United States is hereby pledged.

MUNITIONS OF WAR.

The Senate resumed the consideration of the bill appropriating a sum of money for procuring munitions of war, and for other purposes.

[This bill provides: That for procuring cannon and small arms, with all necessary implements for using the same with effect, when required for actual service, and for procuring gunpowder, saltpetre, knapsacks, tents, camp kettles, and all other necessary implements and munitions of war, and also for providing proper and convenient arsenals, and other needful buildings for the reception and preservation of the same, there shall be, and hereby is, appropriated a sum of money not exceeding — dollars, to be paid out of any moneys in the Treasury not otherwise appropriated.]

That the aforesaid sum of money, or so much thereof as in the judgment of the President of the United States shall be deemed necessary for the objects aforesaid, shall be applied by the Secretary at War, under the directions of the President of the United States, to the purchasing and procuring the articles aforesaid, in such proportions and at such times, and the same when purchased or procured shall be deposited in such places as the President of the United States shall direct, having regard in making such deposits to places of security, convenient to such parts of the United States as he shall deem most liable to predatory attacks from an enemy.

That, for supplying clothing for the Army of the United States for the year one thousand eight hundred and eleven, there shall be, and hereby is, appropriated a sum of money not exceeding — dollars, to be paid out of any moneys in the Treasury not otherwise appropriated; and the same, or so much thereof as may be necessary for the object, as well as all other moneys hereafter appropriated, shall be applied to procuring the ne-

SENATE.

Proceedings.

MARCH, 1810.

cessary clothing for the Army of the United States, under the directions of the Secretary at War, by publishing proposals and making contracts for supplying the aforesaid clothing, or any part thereof, in the same manner as proposals are now published and contracts are now made for supplying provisions for the Army of the United States, giving the preference, in all cases of such proposals, to fabrics of the domestic manufactures of the United States, where the same can be done without material detriment to the service thereof.]

Mr. POPE moved to amend the bill by adding the following as a new section:

Sec. 4. *And be it further enacted*, That for supplying clothing for the Marine Corps and for furnishing and equipping the Navy of the United States, for the year 1811, there shall be, and is hereby, appropriated, a sum of money not exceeding ——— dollars, to be paid out of any moneys in the Treasury not otherwise appropriated, and the same or so much thereof as may be necessary for the object, as well as all other moneys hereafter appropriated, shall be applied to procuring the necessary clothing for the Marine Corps and furnishing and equipping the Navy of the United States, under the direction of the Secretary of the Navy, by publishing proposals, and making contracts for supplying the aforesaid clothing or any part thereof, in the same manner as proposals are now published, and contracts are now made for supplying provisions for the Army of the United States, giving preference in all cases of such proposals to fabrics and articles of the manufacture and growth of the United States, where the same can be done, without material detriment to the service thereof.

Mr. LLOYD also having offered an amendment, the further consideration of the bill was, on motion of Mr. GILES, postponed till to-morrow.

FRIDAY, March 23.

Mr. GILMAN, from the committee, reported the amendments to the bill, entitled "An act to make public a road in Washington county, in the District of Columbia," correctly engrossed; and the bill was read the third time as amended.

Resolved, That this bill pass with amendments.

The bill to amend the laws within the District of Columbia was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BAYARD, BRENT, and POPE, were appointed the committee.

The Senate resumed the motion made yesterday, That a committee be appointed to inquire whether any further and what provision should be made for the relief of persons imprisoned on process issued from the courts of the United States in civil cases, and that they have leave to report by bill or otherwise; and, having agreed thereto, Messrs. WHITESIDE, LEIB, and BAYARD, were appointed the committee.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the discharge of John Kerr from his imprisonment," in which they request the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill to alter and amend the act, entitled "An act fixing the Military Peace Establishment of the United States."

[The first section provides: "That no allowance of additional rations shall be made to any officer above the rank of a colonel, nor to the commandant of the Marine Corps, nor in any case shall allowance of additional rations exceed the number of rations, to which the officer receiving such allowance is entitled by law for his daily subsistence."]

On motion, by Mr. ANDERSON, to strike out, from lines fourth and fifth, the following words: "nor to the commandant of the Marine Corps," it was determined in the affirmative—yeas 18, nays 10, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Champlin, Clay, Gaillard, German, Gilman, Goodrich, Hillhouse, Horsey, Mathewson, Meigs, Pickering, Pope, Smith of Maryland, Smith of New York, and Sumter.

NAYS—Messrs. Campbell, Condit, Crawford, Franklin, Lambert, Leib, Lloyd, Tait, Turner, and Whiteside.

And the President reported the bill to the House amended accordingly. On the question, Shall the bill be engrossed and read a third time as amended? it was determined in the affirmative.

The bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company, was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BAYARD, POPE, and ANDERSON, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill appropriating a sum of money for procuring munitions of war, and for other purposes; and, after the consideration of sundry propositions to amend the bill, the further consideration thereof was postponed until Monday next.

The Senate resumed the bill to add to the officers of the Treasury a Superintendent of the Public Lands of the United States. And, on motion by Mr. MEIGS, the further consideration thereof was postponed indefinitely.

MONDAY, March 26.

Mr. BAYARD, from the committee to whom was referred the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company, reported it without amendment.

The bill, entitled "An act authorizing the discharge of John Kerr from his imprisonment," was read the second time.

The Senate resumed, as in Committee of the Whole, the bill for the establishment of a Quartermaster's department, together with the amendments reported by the select committee; and, having agreed thereto, and further amended the bill, the President reported it to the House accord-

MARCH, 1810.

Ohio Canal Company—Munitions of War.

SENATE.

ingly. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

The bill making provision for the establishment of a National Bank, was read the second time.

Mr. GILMAN, from the committee, reported the bill to alter and amend the act, entitled "An act fixing the Military Peace Establishment of the United States," correctly engrossed; and the bill was read the third time, and passed.

A Message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act making an appropriation for the purpose of trying the practical use of the torpedo, or submarine explosion," with an amendment, in which they desire the concurrence of the Senate. The House of Representatives have passed a bill, entitled "An act authorizing the discharge of Phineas Varney from his imprisonment;" also, a bill, entitled "An act making appropriations for carrying into effect certain Indian treaties;" in which bills they desire the concurrence of the Senate.

Mr. CLAY, from the committee to whom was recommitted the bill granting a right of pre-emption to purchasers of public lands in certain cases, reported it with amendments; which were read.

OHIO CANAL COMPANY.

Mr. POPE, from the committee to whom was referred on the 22d instant so much of the report of the Secretary of the Treasury, on roads and canals, as relates to the Ohio Canal, reported the following bill, which was read the first and second time:

A bill authorizing a subscription on the part of the United States, to the stock of the Ohio Canal Company.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States shall be, and is hereby, authorized to subscribe unto the capital of the Ohio Canal Company, incorporated by the State of Kentucky, upon the application of the said company, in the manner and under the restrictions in this act contained, to the amount which may be deficient in the subscription to the said stock, not exceeding one hundred and fifty thousand dollars, payable in three equal annual instalments, to be payable out of any moneys in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted,* That whenever application, by said company, shall be made, as aforesaid, an authentic map and description of the said canal, explaining the manner in which the same is proposed to be carried into effect, shall be deposited with the Secretary of the Treasury, together with a correct list of all the subscriptions and payments which shall have been made to the capital stock of the said company, and also a copy of the law under which the company shall have been incorporated and empowered to act; and if it shall appear to the satisfaction of the President, that proper and competent arrangements have been made for cutting or making the said canal, and that, in his opinion, there is no sufficient objection to the line or lines on which the said company propose to carry the said canal, then the said subscription, on

the part of the United States, shall be made as before directed by the President, who shall, at the time of subscribing, direct when the first instalment of the aforesaid sum of one hundred and fifty thousand dollars shall be paid. But if any objection occur to the line or lines, on which the company propose to carry their canal, then it shall be lawful for the President to withhold the subscription on behalf of the United States, until the line or lines of said canal shall be located in such manner as to him may appear proper.

SEC. 3. *And be it further enacted,* That the shares constituting the subscription which may be made on the part of the United States, as by this act provided, shall be vested in the United States, and it shall be lawful for the President to appoint a proxy to vote, at any stated or other meeting of the stockholders, on behalf of the United States, and in all respects to represent the interest of the United States, under the direction of the President.

MUNITIONS OF WAR.

The Senate resumed the consideration of the bill appropriating a sum of money for procuring munitions of war. The section, as first offered by Mr. POPE, having been objected to by some on the ground that the expressions relative to the Navy were too general and comprehensive, Mr. P. withdrew it and offered the following as a substitute:

SEC. 4. *And be it further enacted,* That for supplying clothing for the Marine Corps and for furnishing the Navy of the United States for the year one thousand eight hundred and eleven, with sail-duck, cordage, and hemp, and other articles of the fabric of hemp and flax requisite for its use, there be and is hereby appropriated a sum of money not exceeding — dollars, to be paid out of any moneys in the Treasury not otherwise appropriated; and the same, or so much thereof as may be necessary for the object, as well as all other moneys which shall be hereafter appropriated, shall be applied to procuring the necessary clothing for the Marine Corps, and furnishing the Navy of the United States as aforesaid, under the direction of the Secretary of the Navy, by publishing proposals and making contracts for supplying the aforesaid clothing and naval supplies aforesaid, or any part thereof, in the same manner as proposals are now published and contracts are now made, for supplying provisions for the Army of the United States, giving preference, in all cases of such proposals, to fabrics and articles of the manufacture and growth of the United States, where the same can be done without material detriment to the service thereof.

A motion was made, by Mr. LLOYD, to strike out from the amendment the following words:

"And for furnishing the Navy of the United States with sail-duck, cordage, and hemp, and other articles of the fabric of hemp, and flax, requisite for its use:"

Mr. CLAY.—The local interest, Mr. President, of the quarter of the country which I have the honor to represent, will apologize for the trouble I may give you on this occasion. My colleague has proposed an amendment to the bill before you, instructing the Secretary of the Navy, in providing supplies of cordage, sail-cloth, hemp, &c., to give a preference to those of American growth and manufacture. This part of the amendment is moved by the gentleman from Massachusetts,

(Mr. LLOYD) to be stricken out. And in the course of the discussion which has arisen, remarks have been made on the general policy of promoting manufactures. The propriety of this policy is perhaps not very intimately connected with the subject before us, but is nevertheless within the legitimate and admissible scope of debate. Under this impression I offer my sentiments.

In inculcating the advantages of domestic manufactures, it never entered the head, I presume, of any one to change the habits of the nation from an agricultural to a manufacturing society. No one I am persuaded ever thought of converting the ploughshare and the sickle into the spindle and shuttle. And yet this is the delusive view too often taken of the subject. The opponents of the manufacturing system transport themselves to the establishments of Manchester and Birmingham, and perceiving the indigence, vice, and wretchedness prevailing there, by pushing it to an extreme, argue that its introduction into this country will be attended by the same mischievous consequences. But what is the fact? That England is the manufacturer of a great part of the world, and even there the numbers thus employed bear an inconsiderable proportion to the whole mass of population. If we were to become the manufacturers of other nations, effects of the same kind might result. But if we limit our efforts by our own wants, the evils apprehended would be found to be chimerical. The invention and improvement of machinery, for which the present age is so remarkable, dispensing in a great degree with manual labor; and the employment of those persons, who, if we are engaged in the pursuits of agriculture alone, would be either unproductive, or exposed to indolence and immorality, will enable us to supply our wants without withdrawing our attention from agriculture; that first and greatest source of our wealth and happiness. A judicious American farmer, in the household way, manufactures whatever is requisite for his family. He squanders but little in the gewgaws of Europe. He presents in epitome what the nation ought to do. Their manufactories ought to bear the same proportion, and effect the same object in relation to the whole community that the part of his household employed in domestic manufacturing does to the whole family. It is certainly desirable that the exports of the country should continue to be the surplus production of tillage, and not become those of manufacturing establishments. But it is important to diminish our imports—to furnish ourselves with clothing made by our own industry—and to cease to be dependent for the very coat we wear upon a foreign and perhaps inimical country. The nation that imports its clothing from abroad is but little less dependent than if it imported its bread.

The fallacious course of reasoning urged against manufactures, the distress and servitude produced by those of England, would equally indicate the propriety of abandoning agriculture itself. Cast your eyes upon the miserable peasantry of Poland.

Revert back to the days of feudal vassalage, and you may thence draw copious arguments of the kind now under consideration against the pursuits of the husbandman! What would become of commerce, the favorite theme of some gentlemen, if assailed with this sort of weapon? The fraud, perjury, cupidity, and corruption, with which it is unhappily too often attended, would at once produce its overthrow. In short, sir, take the black side of the picture and every human occupation will be found pregnant with fatal objections.

The opposition to manufacturing institutions recalls to my recollection the case of a gentleman of whom I have heard. He had been in the habit of supplying his table from a neighboring cook and confectioner's shop, and proposed to his wife a reform in this particular. She revolted at the idea. The sight of a scullion was dreadful, and her delicate nerves could not bear the clattering of kitchen furniture. But the gentleman persisted in his design; his table was thenceforth better and cheaper supplied, and his neighbor the confectioner lost one of his best customers. In like manner Dame Commerce will oppose domestic manufactures. She is a flirting, flippant, noisy jade, and if we are governed by her fantasies, we shall never put off the muslins of India and the cloths of Europe. But I trust that the yeomanry of the country, the true and genuine landlord of this tenement, called the United States, disregarding her freaks, will persevere in reform until the whole national family is furnished by itself with the clothing necessary for its own use.

It is a subject no less of curiosity than of interest to trace the prejudices in favor of foreign fabrics. In our colonial condition we were in a complete state of manufactural and commercial, as well as political dependence on the parent country. For many years after the war, such was the partiality for her productions, that a gentleman's head could not withstand the influence of solar heat, unless covered with a London hat—his feet could not bear the pebbles or frost of this country, unless protected by London shoes—and the comfort or adornment of his person was consulted when his coat was cut out by the shears of a tailor "just from London." At length, however the wonderful discovery has been made that it is not absolutely beyond the reach of American skill and ingenuity to provide these articles, combining with equal elegance greater durability. And I entertain no doubt that in a short time the no less important fact will be developed, that the domestic manufactories of the United States, fostered by Government, and aided by household exertions, are fully competent to supply us with at least every necessary article of clothing. I therefore, sir, for one, (to use the fashionable cant of the day,) am in favor of encouraging them, not to the extent to which they are carried in England, but to such extent as will redeem us entirely from all dependence on foreign countries. There is a pleasure—a pride (if I may be allowed the expression, and I pity those who cannot feel the sentiment) in being clad in the productions of

MARCH, 1810.

Munitions of War.

SENATE.

our own families. Others may prefer the cloths of Leeds and of London, but give me those of Humphreysville.

Aid may be given to native institutions in the form of bounties and of protecting duties. But against bounties it is urged that you tax the whole for the benefit of a part, only, of the community; and in opposition to duties it is alleged that you make the interests of one part, the consumer, bend to that of another part, the manufacturer. The sufficiency of the answer is not always admitted, that the sacrifice is merely temporary, being ultimately compensated by the greater abundance and superiority of the article produced by the stimulus. But, of all practicable forms of encouragement, it might have been expected that the one under consideration would escape opposition, if everything proposed in Congress were not doomed to experience it. What is it? The bill contains two provisions—one prospective, anticipating the appropriation for clothing for the Army, and the amendment proposes extending it to naval supplies also, for the year 1811—and the other, directing a preference to be given to home manufactures and productions whenever it can be done without material detriment to the public service. The object of the first is to authorize contracts to be made beforehand with manufacturers, and by making advances to them, under proper security, to enable them to supply the articles wanted in sufficient quantity. When it is recollected that they are frequently men of limited capitals, it will be acknowledged that this kind of assistance, bestowed with prudence, will be productive of the best results. It is, in fact, only pursuing a principle long acted upon, of advancing to contractors with Government, on account of the magnitude of their engagements. The appropriation contemplated to be made for the year 1811, may be restricted to such a sum as, whether we have peace or war, we must necessarily expend. The discretion is proposed to be vested in officers of high confidence, who will be responsible for its abuse, and who are enjoined to see that the public service receives no material detriment. It is stated that hemp is now very high, and that contracts made under existing circumstances will be injurious to Government. But the amendment creates no obligation upon the Secretary of the Navy to go into market at this precise moment. In fact, by enlarging his sphere of action, it admits of his taking advantage of a favorable fluctuation, and getting a supply below the accustomed price, if such a fall should occur prior to the usual annual appropriation.

I consider the amendment under consideration of the first importance in point of principle. It is evident, that whatever doubt may be entertained as to the general policy of the manufacturing system, none can exist as to the propriety of our being able to furnish ourselves with articles of the first necessity, in time of war. Our maritime operations ought not in such a state to depend upon the casualties of foreign supply. It is not necessary that they should. With very little en-

couragement from Government, I believe we shall soon not want a pound of Russia hemp. The increase of the article in Kentucky has been rapidly great. Ten years ago there were but two rope manufactories in the State. Now there are about twenty, and between ten and fifteen of cotton bagging; and the erection of new ones keeps pace with the annual augmentation of the quantity of hemp. Indeed the Western country alone is adequate to the supply not only of whatever of this article is requisite for our own consumption, but is capable of affording a surplus for foreign markets. The amendment proposed possesses the double recommendation of encouraging at the same time the manufacture and growth of hemp. For, increasing the demand for the wrought article, you increase the demand also for the raw material, and consequently present new incentives to the cultivator.

The three great subjects that claim the attention of the National Legislature are the interests of agriculture, commerce, and manufactures. We have had before us a proposition to afford a manly protection to the rights of commerce, and how has it been treated? Rejected! You have been solicited to promote agriculture, by increasing the facilities of internal communication through the means of canals and roads, and what has been done? Postponed! We are now called upon to give a trifling support to our domestic manufactories, and shall we close the circle of Congressional inefficiency by adding this also to the catalogue?

When Mr. CLAY had concluded, the question was taken on striking out the clause, and it was determined in the negative—yeas 9, nays 22, as follows:

YEAS—Messrs. Bradley, Crawford, German, Gilman, Goodrich, Hillhouse, Lloyd, Pickering and Turner.

NAYS—Messrs. Anderson, Bayard, Campbell, Champlin, Clay, Condit, Franklin, Gaillard, Giles, Gregg, Horsey, Lambert, Leib, Mathewson, Meigs, Pope, Robinson, Smith of Maryland, Smith of New York, Sumter, Tait, and Whiteside.

And the original motion, of Mr. POPE, for amendment having been agreed to, the Senate adjourned.

TUESDAY, March 27.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act making an appropriation for the purpose of trying the practical use of the torpedo or submarine explosion." And on motion by Mr. LEIB,

Resolved, That they concur therein.

The bill from the House of Representatives, entitled "An act making appropriations for carrying into effect certain Indian treaties," was read, and passed to the second reading.

The bill, entitled "An act authorizing the discharge of Phineas Varney from his imprisonment," was read and passed to the second reading.

Mr. GILMAN, from the committee, reported the bill for the establishment of a Quartermaster's

SENATE.

Proceedings.

MARCH, 1810.

department correctly engrossed; and the bill was resumed. And on motion, by Mr. LEIB, it was recommitted to a select committee, further to consider and report thereon, and Messrs. PICKERING, LEIB, and ANDERSON, were appointed the committee.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Tristram Hussey;" in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill granting a right of pre-emption to purchasers of public lands in certain cases, together with the amendments reported by the select committee; and having agreed thereto, and further amended the bill, on motion, by Mr. GERMAN, to strike out all the bill except the enacting clause and the third section, it was determined in the affirmative—yeas 26, nays 4, as follows:

YEAS—Messrs. Anderson, Campbell, Champlin, Clay, Franklin, Gaillard, German, Giles, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Leib, Lloyd, Mathewson, Meigs, Pickering, Reed, Robinson, Smith of Maryland, Smith of New York, Sumter, Tait, and Whiteside.

NAYS—Messrs. Bradley, Condit, Crawford, and Turner.

On motion, by Mr. MEIGS, the bill was recommitted to a select committee, further to consider and report thereon; and Messrs. MEIGS, GREGG, and GILES, were appointed the committee.

Mr. CHAMPLIN stated that the Legislature of the State of Rhode Island had requested their Senators and Representatives in Congress, to oppose an alteration of the Constitution of the United States, respecting the removal from office by the President of the United States, of any of the judges of the courts thereof, which was proposed as an amendment to the Constitution of the United States by the Legislature of the State of Vermont.

WEDNESDAY, March 28.

Mr. ANDERSON, from the committee appointed on the subject, reported a bill to amend an act supplementary to an act, entitled "An act to incorporate the inhabitants of the City of Washington, in the District of Columbia;" and the bill was read, and passed to the second reading.

On motion, by Mr. BAYARD, it was agreed that the bill making provision for the establishment of a National Bank be the order of the day for Wednesday next.

The bill, entitled "An act making appropriations for carrying into effect certain Indian treaties," was read the second time, and passed to the third reading.

The bill, entitled "An act authorizing the discharge of Phineas Varney from his imprisonment," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BRADLEY, GOODRICH, and GREGG, were appointed the committee.

The bill entitled "An act for the relief of Tristram Hussey," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. GERMAN, BRADLEY, and GREGG, were appointed the committee.

On motion, by Mr. TURNER, the bill entitled "An act authorizing the discharge of John Kerr from his imprisonment," was referred to a select committee, to consider and report thereon; and Messrs. TURNER, TAIT, and CRAWFORD, were appointed the committee.

The Senate resumed the bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company. On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

The Senate resumed the bill authorizing a subscription on the part of the United States to the stock of the Ohio Canal Company. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill appropriating a sum of money for procuring munitions of war, and for other purposes, and the President having reported the bill to the House amended, on the question, Shall this bill be engrossed and read the third time as amended? it was determined in the affirmative.

Mr. CLAY, from the committee to whom was referred, on the 23d February, the petition of Richard B. Lee, made report; which was read for consideration.

Mr. ANDERSON, from the committee appointed on the subject, reported a bill supplementary to an act, entitled "An act concerning the District of Columbia;" which was read and passed to the second reading.

Mr. MEIGS, from the committee to whom was recommitted the bill granting a right of pre-emption to purchasers of public lands in certain cases, reported amendments thereto; which were read.

Mr. CLAY gave notice that to-morrow he should ask leave to bring in a bill supplementary to an act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers."

Mr. LLOYD presented the memorial of the proprietors of the Middlesex canal, in Massachusetts, stating that, at a very great expense, they have constructed a canal twenty-seven miles in length, and which, in its progress, over seven rivers and by twenty locks, descends one hundred and four feet, into the harbor of Boston; and when finished will be of great public utility; but that the finances of the proprietors are inadequate to the completion of their object, ultimately, the inland navigation from the Merrimack, by intervening rivers and lakes, to the western waters. They therefore pray they may be included in the bill for the improvement of the United States by canals and roads; and the memorial was read, and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. LLOYD, BRADLEY, and GILMAN, were appointed the committee.

MARCH, 1810.

Proceedings.

SENATE.

Mr. LLOYD, from the last mentioned committee, reported a bill authorizing the sale and grant of a certain quantity of public land to the proprietors of the Middlesex canal, in the State of Massachusetts; and the bill was read and passed, to the second reading.

THURSDAY, March 29.

The bill authorizing the sale and grant of a certain quantity of public land to the proprietors of the Middlesex canal, in the State of Massachusetts, was read the second time, and considered as in Committee of the Whole; on motion by Mr. LLOYD, the bill having been amended, the President reported it to the House accordingly. On the question, Shall this bill be engrossed and read the third time as amended? it was determined in the affirmative.

The bill supplementary to an act, entitled "An act concerning the District of Columbia," was read the second time; and, on motion by Mr. ANDERSON, it was agreed that the further consideration thereof be the order of the day for Tuesday next.

The bill to amend the act supplementary to an act, entitled "An act to incorporate the inhabitants of the City of Washington, in the District of Columbia," was read the second time; and, on motion by Mr. ANDERSON, it was agreed that the further consideration thereof be the order of the day for Tuesday next.

The Senate resumed, as in Committee of the Whole, the amendments reported by the select committee to the bill granting the right of pre-emption to purchasers of public lands in certain cases; and, having agreed thereto, the President reported the bill to the House amended accordingly. On the question, Shall this bill be engrossed and read the third time as amended? it was determined in the affirmative.

The bill authorizing the sale and grant of a certain quantity of public land to the Chesapeake and Delaware Canal Company, was read the third time, and passed.

Mr. GREGG, from the joint committee appointed on the part of the Senate to consider and report the business necessary to be acted on during the present session, and when it may be expedient to close the same, reported the business; and that, in the opinion of the committee, the session may be closed on the 23d day of April next; and the report was read for consideration.

Mr. FRANKLIN, from the committee to whom was referred the bill, entitled "An act regulating the Post Office Establishment," reported it with an amendment.

The bill authorizing a subscription on the part of the United States to the stock of the Ohio Canal Company was read the third time, and passed.

Mr. TURNER, from the committee to whom was referred the bill, entitled "An act authorizing the discharge of John Kerr from his imprisonment," reported it without amendment.

Ordered, That this bill pass to a third reading.

On motion, by Mr. GILES, it was agreed that the further consideration of the bill appropriating a sum of money for procuring munitions of war, and for other purposes, be postponed until Monday next.

Mr. CLAY asked and obtained leave to bring in a bill supplementary to an act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers;" and the bill was read, and passed to the second reading.

FRIDAY, March 30.

The report of the select committee on the petition of Richard B. Lee was resumed; and, on motion by Mr. BRENT, it was ordered to lie on the table.

The bill supplementary to an act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. CLAY, ANDERSON, and MEIGS, were appointed the committee.

On motion, by Mr. ANDERSON,

Resolved, That a committee be appointed to inquire whether any, and, if any, what alterations are necessary to be made in the act for establishing trading-houses with the Indian tribes, and the several acts supplementary thereto; and that the committee have leave to report by bill, or otherwise.

Ordered, That Messrs. ANDERSON, CRAWFORD, and GREGG, be the committee.

Mr. GILMAN, from the committee, reported the bill authorizing the sale and grant of a certain quantity of public land to the proprietors of the Middlesex canal, in the State of Massachusetts, correctly engrossed; and, on motion by Mr. GOODRICH, it was agreed that the further consideration thereof be postponed until Monday next.

Mr. GILMAN, from the committee, also reported the bill granting the right of pre-emption to purchasers of public lands in certain cases correctly engrossed; and the bill was read the third time; and, on motion by Mr. CAMPBELL, the blanks were filled as follows:

The first, with the word "six."

second, with the words "six hundred and forty."

third, with the words "first day of January next."

fourth, with the word "two."

fifth, with the word "two."

sixth, with the words "six hundred and forty."

seventh, with the words "first day of June next."

Resolved, That this bill pass, and that the title thereof be "An act to extend the time for making payment for the public lands of the United States in certain cases."

On motion, by Mr. TURNER,

Resolved, That the bill, entitled "An act authorizing the discharge of John Kerr from his

imprisonment," be recommitted to a select committee, further to consider and report thereon.

Ordered, That Messrs. TURNER, CRAWFORD, and TAIT, be the committee.

Mr. BAYARD, from the committee to whom was referred the bill to amend the laws within the District of Columbia, reported it with amendments; which were read.

Mr. CRAWFORD, from the committee to whom was recommitted, on the 20th February, the resolution for an amendment to the Constitution of the United States, respecting titles of nobility, together with the amendments reported thereto by the select committee, reported it further amended.

The bill, entitled "An act making appropriations for carrying into effect certain Indian treaties," was read the third time.

On motion, by Mr. BRADLEY, it was agreed, by unanimous consent, to amend the bill, by adding, at the end of the second section, the following words: "and a further annuity of two hundred dollars to the Miami tribe of Indians; and to the Wea and Eel river tribes, a further annuity of one hundred dollars each, which shall be permanent."

Resolved, That this bill pass with an amendment.

Mr. GERMAN gave notice that on Monday he should ask leave to bring in a bill to appropriate a certain tract of land for opening and improving the water communication between the tide waters of the Hudson river and Lakes Ontario and Erie.

Mr. G., also, from the committee to whom was referred the bill for the relief of Tristram Hussey, reported it without amendment.

Ordered, That this bill pass to a third reading.

MONDAY, April 2.

Mr. BRADLEY, from the committee appointed on the subject, reported a bill fixing the compensation of public Ministers, and of Consuls residing on the coast of Barbary, and for other purposes; and the bill was read and passed to the second reading.

Mr. B., also, from the committee to whom was recommitted the bill for the relief of Joseph Sumner, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason, reported it amended.

On motion, by Mr. BRENT,

Ordered, That the petition of Richard B. Lee, with the report of the Secretary of War, made on the 29th of November, 1809, together with all the other papers accompanying the said petition, be recommitted to a select committee, further to consider and report thereon.

Ordered, That Messrs. BRENT, CRAWFORD, and CLAY, be the committee.

The Senate resumed, as in Committee of the Whole, the amendments reported by the select committee to the bill to amend the laws within the District of Columbia; and, having agreed thereto, the President reported the bill to the

House amended accordingly. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. BRENT, from the committee to whom was referred the petition of Urban Guillet and his associates, known under the name of the "Society of La Trappe," made report; which was read for consideration.

The engrossed bill authorizing the sale and grant of a certain quantity of public land to the proprietors of the Middlesex canal, in the State of Massachusetts, was read the third time.

On motion by Mr. LLOYD, it was agreed, by unanimous consent, to amend the bill, and to strike out, after the word "therewith," at the end of the fourth section, as follows: "and extending the same to Connecticut river, by such waters or canals as may be fixed by the Board of Directors," and to insert the following words: "pursuant to the act or acts of incorporation that have been or may be obtained by said company."

Resolved, That this bill pass as amended, and that the title thereof be "An act authorizing the sale and grant of a certain quantity of public land to the proprietors of the Middlesex canal, in the State of Massachusetts."

On motion, by Mr. SMITH, of Maryland.

Resolved, That the Secretary for the Department of the Treasury be directed to report to the Senate, whether any, and what, dividends have been made by the Bank of the United States, other than those publicly declared of eight per cent. per annum; and whether any surplus, and what amount, remained to the credit of the bank after payment of the last dividend had been made; and, also, the profit or loss that has resulted to the bank from its offices of discount and deposit; specifying the profit or the loss on each office separately, and the amount of capital supplied to each.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I transmit to the Senate a report of the Secretary of State, complying with the resolution of the twenty-second instant.

JAMES MADISON.

MARCH 30, 1810.

The Message and report were read.

On motion, by Mr. BRADLEY, it was

Resolved, That the bill, entitled "An act for the relief of Jared Shattuck," together with the above Message and report, be referred to a select committee, to consider and report thereon.

Ordered, That Messrs. BRADLEY, GREGG, and BAYARD, be the committee.

The bill, entitled "An act for the relief of Tristram Hussey," was read the third time, and passed.

Mr. GERMAN asked and obtained leave to bring in a bill to appropriate a certain tract of land for opening and improving the water communication between the tide waters of the Hudson river and Lakes Ontario and Erie; and the bill was read and passed to a second reading.

A message from the House of Representatives

APRIL, 1810.

Bank of the United States.

SENATE.

informed the Senate that the House adhere to their disagreement to the amendment of the Senate to the bill, entitled "An act respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes." The House have passed a bill, entitled "An act to examine into the title to the bature in front of the suburb St. Mary;" in which bill they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

On motion, by Mr. GILES, the further consideration of the bill appropriating a sum of money for procuring munitions of war, and for other purposes, was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act regulating the Post Office Establishment;" together with the amendment reported thereto by the select committee; and, after progress, the Senate adjourned.

TUESDAY, April 3.

Mr. GILMAN, from the committee, reported the bill to amend the laws within the District of Columbia correctly engrossed; and the bill was read the third time, and passed.

The bill to appropriate a certain tract of land for opening and improving the water communication between the tide waters of the Hudson river and Lakes Ontario and Erie, was read the second time.

The bill fixing the compensation of Ministers and of Consuls, residing on the coast of Barbary, and for other purposes," was read the second time.

The bill, entitled "An act to examine into the title of the bature in front of the suburb St. Mary," was read the second time, and referred to a select committee, to consist of five members, to consider and report thereon; and Messrs. WHITESIDE, CRAWFORD, GREGG, BRADLEY, and HILLHOUSE, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act regulating the Post Office Establishment;" together with the amendments proposed thereto; and on the amendment submitted by Mr. BAYARD, as follows:

To strike out, from the word "office," in the second line of tenth section, to the word "and," in sixth line, and insert the following clause:

"Which shall remain open for the receipt and delivery of letters, papers, and packages, each day of the week, from the hour of — in the morning, to the hour of — in the evening; during which time, and, also, such other time as the Postmaster General shall direct, one or more persons shall attend for the purpose of performing the duties thereof."

Mr. BRADLEY called for a division of the question, and it was taken on striking out; and determined in the negative—yeas 14, nays 15, as follows:

YEAS—Messrs. Anderson, Bayard, Campbell, Clay, Gaillard, Giles, Horsey, Lambert, Reed, Smith of Maryland, Sumter, Turner, and Whiteside.

NAYS—Messrs. Bradley, Condit, Crawford, Frank-

lin, German, Gilman, Goodrich, Gregg, Hillhouse, Lloyd, Mathewson, Meigs, Pickering, Robinson, and Smith of New York.

On motion, by Mr. GOODRICH, to amend the bill, by inserting the words "by water," between the words "communication" and "shall," in the 7th section, it was passed in the affirmative—yeas 22, nays 5, as follows:

YEAS—Messrs. Bayard, Bradley, Campbell, Champlin, Clay, Condit, Crawford, Gaillard, German, Gilman, Goodrich, Hillhouse, Horsey, Lambert, Lloyd, Mathewson, Pickering, Reed, Robinson, Smith of Maryland, Smith of New York, and Turner.

NAYS—Messrs. Anderson, Franklin, Gregg, Meigs, and Sumter.

And sundry other amendments having been agreed to, the Senate adjourned.

WEDNESDAY, April 4.

BANK OF THE UNITED STATES.

The PRESIDENT laid before the Senate the following report of the Secretary of the Treasury, made in pursuance of the resolution of the Senate of the 2d instant:

TREASURY DEPARTMENT, April 3, 1810.

SIR: I have the honor to transmit a report, prepared in obedience to the resolution of the Senate of yesterday.

I have the honor to be, &c.

ALBERT GALLATIN.

To the honorable the President of the Senate:

The Secretary of the Treasury, in obedience to the resolution of the Senate, of the 2d instant, respectfully reports—

That the statement annexed to the report made to the Senate on the 2d day of March, 1809, contained all the dividends made by the Bank of the United States, from its establishment to the date of the report, as stated to the Treasury by the bank.

That the annexed table, (A,) being a transcript of the abovementioned statement, with the addition of the dividends made on the 1st day of July, 1809, and on the 1st day of January last, embraces not only the semi-annual dividends of 4 per cent., but also all the extra dividends which are within the knowledge of this Department, and which, it is believed, have ever been made by the bank; making, in the whole, an average of 8 13-36 per cent. a year.

That there remained to the credit of the bank, after payment of the dividend made on the 1st day of January last, a surplus of \$409,410, consisting of two items, viz: \$125,000, designated by the name of "General Bank Estate," intended as an offset against decay and presumed loss, in case of sale of the real estate of the bank—that estate having been paid for from the capital stock, and not from the profits of the bank; and \$284,410, designated by the name of "Contingent Fund," intended in the first place to cover losses arising from bad debts, not yet actually lost; and the residue of which, if any, will be applicable to another extra dividend.

That the nominal profit resulting to the bank, from each of its offices of discount and deposit, could not be ascertained without an investigation of all the weekly returns made to this Department; and that there are no returns from which the actual loss sustained by each office can be known.

But, that the statement (B) shows the permanent capital given to each office of discount and deposit; the

SENATE.

Post Office Establishment.

APRIL, 1810.

balance due in account current by the offices of the bank, (exclusive and in addition to the said permanent capital,) on the 27th day of March last; the amount of the notes actually discounted and due to the bank by the last returns, specifying the amount discounted at Philadelphia, and at each office respectively; and an estimate of the gross amount of the annual expenses and losses of the bank, including its several offices, by which it appears that the annual expenses, being about \$125,000 a year, the ascertained losses must in the whole have amounted to about \$35,000 a year.

All which is respectfully submitted.

ALBERT GALLATIN.

Dividends on United States Bank Stock.

| No. | Date. | Rate p. ct. | No. | Date. | Rate p. ct. |
|-----|---------------|-------------|-----|---------------|-------------|
| 1 | July, 1792 | 4 | 19 | July, 1801 | 4 |
| 2 | January, 1793 | 4 | 20 | January, 1802 | 4½† |
| 3 | July, " 3½* | 21 | 21 | July, " 4½† | 4½† |
| 4 | January, 1794 | 3½* | 22 | January, 1803 | 4½† |
| 5 | July, " 4 | 23 | 23 | July, " 4 | 4 |
| 6 | January, 1795 | 4 | 24 | January, 1804 | 4½† |
| 7 | July, " 4 | 25 | 25 | July, " 4 | 4 |
| 8 | January, 1796 | 4 | 26 | January, 1805 | 4 |
| 9 | July, " 4 | 27 | 27 | July, " 4 | 4 |
| 10 | January, 1797 | 4 | 28 | January, 1806 | 4 |
| 11 | July, " 4 | 29 | 29 | July, " 4 | 4 |
| 12 | January, 1798 | 5 † | 30 | January, 1807 | 6 † |
| 13 | July, " 4 | 31 | 31 | July, " 4 | 4 |
| 14 | January, 1799 | 4 | 32 | January, 1808 | 4 |
| 15 | July, " 4 | 33 | 33 | July, " 4 | 4 |
| 16 | January, 1800 | 4 | 34 | January, 1809 | 4 |
| 17 | July, " 4 | 35 | 35 | July, " 4 | 4 |
| 18 | January, 1801 | 6 † | 36 | January, 1810 | 4 |

* Dividends falling short of the rate of 8 per cent. per annum.

† Including extra dividends.

Statement of the capital of the several branches, and of the Bank of the United States, and of the amount of discounts by the last received returns.

| Cities, &c. | Capital. | Amt. of notes discounted. |
|--|--------------|---------------------------|
| Boston - - - | \$700,000 | \$998,859 |
| New York - - - | 1,800,000 | 4,175,874 |
| Baltimore - - - | 600,000 | 1,349,550 |
| Washington - - - | 200,000 | 485,285 |
| Norfolk - - - | 600,000 | 880,170 |
| Charleston - - - | 600,000 | 1,409,916 |
| Savannah - - - | 500,000 | 1,054,113 |
| New Orleans - - - | 300,000 | 611,517 |
| Philadelphia— | | |
| Balance due the bank, in account current, by the offices - \$750,000 | | |
| Cap'l reserved 3,950,000 | | |
| | 4,700,000 | |
| | \$10,000,000 | |
| Funded debt - - - | | 1,411,620 |
| | | \$16,949,497 |

Estimate of the expenses and losses of the Bank.

Six per cent. on \$17,000,000, estimated as per above, as the amount usually loaned on interest, is, per annum, \$1,020,000—to wit:

Dividend of 8 13-36 per cent. a year, on ten millions of dollars actually paid to the stockholders, is, per annum - - - - - \$836,111

Undivided surplus on the 1st January, 1810, \$409,410, divided by 18 years, would be equal to an annual dividend of - - - 22,745

Leaving for the estimated annual amount of expenses and losses - - - - - 161,144

Total - - - - - \$1,020,000

The Senate resumed, as in Committee of the Whole, the bill making provision for the establishment of a National Bank; and Mr. BAYARD moved, among other amendments, the following new section to the bill making provision for the establishment of a National Bank, which were ordered to be printed, and the bill postponed till Friday next, and made the order of that day.

SEC. 3. *And be it further enacted*, That it shall be lawful for any person, copartnership, or body politic, who now do, or at any time within three years from the third day of March next may, hold stock of the present Bank of the United States, to subscribe, within that period of time, in the books to be opened at the city of Philadelphia, for as many shares as he, she, or they, may hold of the capital stock of the said Bank of the United States; and the shares so subscribed shall be payable either in gold or silver, or by the transfer and assignment of an equal amount of the stock of the said bank, at the time of the subscription.

SEC. 16. *And be it further enacted*, That the incorporation of the subscribers to the Bank of the United States, made and established by the act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the 25th day of February, A. D. 1791, shall continue, and the same is hereby continued, till the 4th day of March, A. D. 1814—the capital to be augmented to thirty millions of dollars.

POST OFFICE ESTABLISHMENT.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act regulating the Post Office Establishment," together with the amendments proposed thereto.

On motion, by Mr. REED, to strike out the 39th section of the bill, which provides an additional compensation to the deputy postmaster of the City of Washington, it was determined in the negative—yeas 2, nays 25, as follows:

YEAS—Messrs. Reed and Turner.

NAYS—Messrs. Anderson, Campbell, Champlin, Clay, Condit, Crawford, Franklin, Gaillard, German, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Lloyd, Mathewson, Meigs, Pickering, Pope, Robinson, Smith of Maryland, Smith of New York, Sumter, and Whiteside.

On the question, to agree to the report of the select committee, to strike out the 40th section of the bill, which gives the Adjutant Generals of the respective States the right of sending and receiving certain letters and packages free of postage, it was determined in the negative—yeas 10, nays 17, as follows:

APRIL, 1810.

Post Office Establishment.

SENATE.

YEAS—Messrs. Bradley, Condit, Crawford, Franklin, Gregg, Lambert, Meigs, Sumter, Turner, and Whiteside.

NAYS—Messrs. Anderson, Champlin, Clay, Gaillard, German, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Mathewson, Pickering, Pope, Reed, Robinson, Smith of Maryland, and Smith of New York.

On motion, by Mr. SMITH of Maryland, a new section, to follow section 40th of the original bill, was agreed to: and, on motion, by Mr. LLOYD, a new section to follow the last was adopted; and the Senate adjourned.

THURSDAY, April 5.

Mr. BRADLEY, from the committee to whom was referred the bill for the preservation of peace and maintenance of the authority of the United States in the ports, harbors, and waters, under their jurisdiction, reported it without amendment.

Mr. SMITH, of Maryland, gave notice that tomorrow he should ask leave to bring in a bill to authorize the President of the United States to employ the public armed ships in protecting the commerce of the United States, and for other purposes.

Mr. LLOYD submitted the following motion:

Resolved, That the Secretary for the Department of War be, and he hereby is, requested to prepare a system for improving the discipline of the militia of the United States, comprehending the infantry, cavalry, and artillery; and to report the same to the Senate at the next session of Congress.

A message from the House of Representatives informed the Senate that the House have passed a resolution authorizing the President of the Senate and Speaker of the House of Representatives to adjourn their respective Houses on the twenty-third of April instant; in which they request the concurrence of the Senate.

The resolution was read, and passed to the second reading.

POST OFFICE ESTABLISHMENT.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act regulating the Post Office Establishment."

On motion, by Mr. HILLHOUSE, to strike out the third section of the bill, which authorizes the appointment of agents, it was determined in the affirmative—yeas 21, nays 6, as follows:

YEAS—Messrs. Campbell, Condit, Crawford, Franklin, Gaillard, Giles, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Lloyd, Mathewson, Pickering, Reed, Smith of Maryland, Smith of New York, Sumter, Tait, and Turner.

NAYS—Messrs. Brent, Clay, German, Pope, Robinson, and Whiteside.

On motion, by Mr. REED, to amend the bill, by inserting, at the end of the 17th section, the following words:

"Or by any vessel plying from one port or place to another, employed in carrying grain or other produce, or goods or merchandise, anything herein contained that might be construed to the contrary notwithstanding."

It was determined in the negative—yeas 7, nays 20, as follows:

YEAS—Messrs. Champlin, Gilman, Hillhouse, Horsey, Pickering, Reed, and Smith of Maryland.

NAYS—Messrs. Clay, Condit, Crawford, Franklin, Gaillard, German, Giles, Goodrich, Gregg, Lambert, Lloyd, Mathewson, Meigs, Pope, Robinson, Smith of New York, Sumter, Tait, Turner, and Whiteside.

On motion, by Mr. HORSEY, to amend the bill, after the word "thereof," in the 6th line of the 10th section, and add the following words:

"*Provided*, That, in the cities or towns of Boston, Providence, and Newport, in the State of Rhode Island, Philadelphia, Wilmington, in the State of Delaware, Baltimore, Annapolis, Washington, Alexandria, Richmond, Petersburg, Norfolk, Charleston, Savannah, Augusta, and New Orleans, the postmasters shall keep their respective offices open for the receipt and delivery of letters, papers, and packages, and give due attendance each day of the week, from the hour of — in the morning to the hour of — in the evening, and at such other hours as the Postmaster General shall direct"—

It was determined in the negative—yeas 15, nays 16, as follows:

YEAS—Messrs. Anderson, Bayard, Brent, Champlin, Gaillard, Giles, Gregg, Horsey, Lloyd, Mathewson, Reed, Smith of Maryland, Sumter, Turner, and Whiteside.

NAYS—Messrs. Bradley, Campbell, Clay, Condit, Franklin, German, Gilman, Goodrich, Hillhouse, Lambert, Meigs, Pickering, Pope, Robinson, Smith of New York, and Tait.

And the bill having been further amended, the further consideration thereof was postponed until to-morrow.

FRIDAY, April 6.

The resolution of the House of Representatives authorizing the President of the Senate and Speaker of the House of Representatives to adjourn their respective Houses on the twenty-third of April, instant, was read the second time, and passed.

Mr. GILES (in pursuance of instructions from the Legislature of Virginia) submitted the following resolutions for consideration:

Resolved, That a committee be appointed to inquire into the expediency of providing by law for appropriating certain waste and unappropriated lands to satisfy bounties due from the State of Virginia to the officers and soldiers of the line of that State, and to the marines thereof; and, if deemed expedient, to designate the said lands by law.

Resolved, That a committee be appointed to inquire into the expediency of extinguishing the Indian claim to lands within the boundaries of the State of Kentucky, and of confirming the titles of all locations for military services therein made; and that the committee have leave to report by bill or otherwise.

On motion, made yesterday,

Resolved, That the bill to incorporate the Trustees of Washington College be postponed to the first Monday in December next.

The Senate resumed, as in Committee of the

SENATE.

Proceedings.

APRIL, 1810.

Whole, the bill, entitled "An act regulating the Post Office Establishment."

On motion, by Mr. REED, to strike out, from the 17th section of the bill, after the word "post road," in the second instance, the words, "or any packet, boat, or other vessel, to ply regularly from one place to another, between which a regular communication by water shall be established by the United States;" it was determined in the negative—yeas 10, nays 18, as follows:

YEAS—Messrs. Bayard, Champlin, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Pickering, Reed, and Smith of Maryland.

NAYS—Messrs. Bradley, Brent, Clay, Condit, Crawford, Franklin, Gaillard, German, Gregg, Lambert, Leib, Meigs, Robinson, Smith of New York, Sumter, Tait, Turner, and Whiteside.

And the bill having been further amended, the President reported it to the House accordingly. On the question, Shall this bill be read the third time as amended? it was determined in the affirmative.

On motion, by Mr. BRENT, the report of the select committee on the petition of Urban Guillet and his associates, known under the name of the society of "La Trappe," was referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. BRENT, GREGG, and GILES, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill making provision for the establishment of a National Bank, together with the amendments reported thereto; and, after progress, the further consideration thereof was postponed until to-morrow.

SATURDAY, April 7.

Mr. BRENT, from the committee appointed on the subject, reported a bill concerning the society of the order of La Trappe; which was read, and passed to the second reading.

On motion, by Mr. BAYARD, the further consideration of the bill making provision for the establishment of a National Bank was postponed until Monday next.

Mr. GILMAN, from the committee, reported the amendments to the bill, entitled "An act regulating the Post Office Establishment," correctly engrossed; and the bill was read the third time as amended.

On motion, by Mr. CRAWFORD,

Resolved, That the bill be recommitted, for the purpose of further amending it, so as to abridge the privilege of franking letters and packets, particularly as it respects the deputy postmasters.

Ordered, That Messrs. CRAWFORD, CLAY, and ANDERSON, be the committee.

The Senate resumed the motion made on the 5th instant, which was, on motion, by Mr. LLOYD, amended and agreed to, as follows:

Resolved. That the Secretary for the Department of War be, and he hereby is, directed to prepare a system of regulations for improving the discipline of the militia of the United States, comprehending the infantry, cavalry, and artil-

lery; and to report the same at the next session of Congress.

Mr. PICKERING, from the committee to whom was recommitment the bill for the establishment of a Quartermaster's department, reported it with amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to alter and amend an act, entitled 'An act providing for the third census or enumeration of the inhabitants of the United States;'" a bill, entitled "An act for the relief of Moses Young;" a bill, entitled "An act for the relief of John Minor, administrator of Reuben Minor;" a bill, entitled "An act for the relief of John Thompson;" also, a bill, entitled "An act for the relief of William W. Weymouth, and Joseph P. Weeks;" in which several bills they desire the concurrence of the Senate.

The bills last brought up for concurrence were read, and passed to the second reading.

The Senate resumed the bill, entitled "An act authorizing the discharge of Phineas Varney from his imprisonment." On the question, Shall this bill be read a third time? it was determined in the negative.

The Senate resumed the bill for the preservation of peace, and maintenance of the authority of the United States, in the ports, harbors, and waters, under their jurisdiction. On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

The resolution of the House of Representatives authorizing the President of the Senate and Speaker of the House of Representatives to adjourn their respective Houses on the 23d of April, instant, was read the third time and agreed to—yeas 23, nays 7, as follows:

YEAS—Messrs. Bayard, Bradley, Campbell, Champlin, Clay, Condit, Crawford, Franklin, German, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Lloyd, Meigs, Pickering, Reed, Robinson, Sumter, Tait, and Turner.

NAYS—Messrs. Anderson, Brent, Gaillard, Leib, Smith of Maryland, Smith of New York, and Whiteside.

On motion, by Mr. LEIB, the further consideration of the bill for the relief of Joseph Sumner, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason, was postponed until Monday next.

Mr. CLAY submitted the following motion:

Resolved, That it is expedient to make provision by law for encouraging emigration to the Orleans Territory, of American citizens, by making a suitable donation of certain portions of the public lands within the said Territory.

Mr. CRAWFORD, from the committee to whom was recommitment the bill, entitled "An act regulating the Post Office Establishment," reported the bill with amendments, which were read and agreed to; and on motion, by Mr. CLAY, the words "three thousand," were stricken out of the new section adopted, to come in after section forty of the original bill; and the President reported the bill to the House accordingly. On the

APRIL, 1810.

Compensation to Ministers, &c.

SENATE.

question, Shall this bill pass to the third reading as amended? it was determined in the affirmative.

On motion, by Mr. SMITH, of Maryland, the bill, entitled "An act to alter and amend an act, entitled 'An act providing for the third census or enumeration of the inhabitants of the United States,'" was read the second and third time by unanimous consent, and passed.

COMPENSATION TO MINISTERS, &c.

The Senate resumed, as in Committee of the Whole, the bill fixing the compensation of public Ministers, and of Consuls residing on the coast of Barbary, and for other purposes.

On motion, by Mr. LLOYD, to strike out, in the eleventh line, first section, the words "two thousand," and insert in lieu thereof "thirteen hundred and fifty," being the compensation for Secretaries of Legation, or for Secretaries of any Minister Plenipotentiary—

Mr. BRADLEY called for a division of the question, and it was taken on striking out, and determined in the negative—yeas 10, nays 19, as follows:

YEAS—Messrs. Condit, Crawford, Goodrich, Gregg, Hillhouse, Leib, Matthewson, Reed, and Smith of Maryland.

NAYS—Messrs. Anderson, Bradley, Brent, Campbell, Clay, Franklin, Gaillard, German, Gilman, Horsey, Lambert, Meigs, Pickering, Robinson, Smith of New York, Sumter, Tait, Turner, and Whiteside.

And the President having reported the bill to the House amended, on the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

MONDAY, April 9.

The bill for the relief of William W. Weymouth and Joseph P. Weeks was read the second time.

Mr. BRENT, from the committee to whom the subject of banks was referred, reported a bill for continuing the charter of the Bank of Alexandria, in the District of Columbia, which was read, and passed to the second reading.

The bill, entitled "An act for the relief of John Thompson," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. CAMPBELL, CLAY, and GILES were appointed the committee.

The bill, entitled "An act for the relief of Moses Young," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. SMITH of Maryland, CRAWFORD, and GREGG, were appointed the committee.

The bill, entitled "An act for the relief of John Minor, administrator of Reuben Minor," was read the second time.

The bill concerning the society of the order of La Trappe, was read the second time.

The Senate resumed the resolutions submitted by Mr. GILES, on the 6th instant, which were agreed to; and Messrs. GILES, ANDERSON, and HILLHOUSE, were appointed the committee.

Mr. CRAWFORD, from the committee to whom

was referred the bill, entitled "An act for the relief of Elizabeth Hamilton," reported it without amendment.

Mr. CRAWFORD, from the same committee, to whom was referred the petition of Sarah Easton and Dorothy Jones, reported that the prayer of the petitioners ought not to be granted, and that they have leave to withdraw their petition.

Mr. BRADLEY, from the committee to whom was referred the petition of the Erie Literary Society, reported that the consideration thereof be postponed to the next session of Congress; and the report was agreed to.

On motion, by Mr. BRADLEY, the bill making provision for the establishment of a National Bank was postponed until Wednesday next.

On motion, by Mr. BRADLEY, the further consideration of the bill appropriating a sum of money for procuring munitions of war, and for other purposes, was postponed until to-morrow.

Mr. GILMAN, from the committee, reported the bill fixing the compensation of Ministers, and of Consuls residing on the coast of Barbary, and for other purposes, correctly engrossed; and the bill was read the third time, and the blanks having been filled—

Resolved, That this bill pass, and that the title thereof be "An act fixing the compensation of Ministers, and of Consuls residing on the coast of Barbary, and for other purposes."

Mr. GILES, from the committee to whom was referred the memorial of the Legislature of the Territory of Orleans, asked and obtained leave to bring in a bill to enable the people of the Territory of Orleans to form a constitution and State Government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes; and the bill was read, and passed to the second reading.

Mr. GILMAN, from the committee, reported the bill for the preservation of peace and maintenance of the authority of the United States in the ports, harbors, and waters, under their jurisdiction, correctly engrossed; and the bill was read a third time, and the blank filled with the words "one thousand;" and, after debate, the further consideration of this bill was postponed until to-morrow.

JOSEPH SUMMERL AND OTHERS.

The Senate resumed, as in Committee of the Whole, the bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason, together with the amendment reported by the select committee.

On motion, by Mr. LEIB, to strike out the following words of the amendment:

"To Archibald McCall, for forty-seven thousand, eight hundred and twelve pounds of tea, exported from the port of Philadelphia, between the 22d and 27th days of August, one thousand eight hundred and five; and on which goods the oath and bond for exportation, required by law, were not taken and given within the ten days;"

It was determined in the negative—yeas 15, nays 16, as follows:

YEAS—Messrs. Anderson, Bradley, Condit, Craw-

SENATE.

Post Office Establishment.

APRIL, 1810.

ford, Franklin, Gregg, Lambert, Leib, Mathewson, Pope, Robinson, Sumter, Tait, Turner, and Whiteside.

YAYS—Messrs. Bayard, Brent, Campbell, Champlin, German, Giles, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Meigs, Pickering, Reed, Smith of Maryland, and Smith of New York.

And having agreed to the report of the select committee, the President reported the bill to the House accordingly. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative—yeas 16, nays 16, as follows:

YEAS—Messrs. Bayard, Brent, Campbell, Champlin, German, Giles, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Meigs, Pickering, Reed, Smith of Maryland, and Smith of New York.

NAYS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, Gregg, Lambert, Leib, Mathewson, Pope, Robinson, Sumter, Tait, Turner and Whiteside.

The Senate being equally divided, the **PRESIDENT** determined the question in the affirmative.

TUESDAY, April 10.

MR. WHITESIDE, from the committee to whom was referred the bill, entitled "An act to examine into the title of the batture in front of the suburb St. Mary," reported it without amendment.

MR. CAMPBELL, from the committee to whom was referred the bill, entitled "An act for the relief of John Thompson," reported it without amendment.

The bill to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes, was read the second time.

MR. SMITH of Maryland, from the committee to whom was referred the bill, entitled "An act for the relief of Moses Young," reported it without amendment.

MR. BRENT, from the committee to whom was referred the bill, entitled "An act to amend an act entitled 'An act for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia,'" reported it with an amendment.

MR. BRENT, from the committee to whom the subject of banks was referred, reported a bill to incorporate the Bank of Washington; which was read and passed to the second reading.

MR. TURNER, from the committee to whom was recommended the bill, entitled "An act authorizing the discharge of John Kerr from his imprisonment," reported it with an amendment; which was read and agreed to. On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

The Senate resumed the third reading of the bill for the preservation of peace and maintenance of the authority of the United States in the ports, harbors, and waters, under their jurisdiction. And on motion, by **MR. ANDERSON**, the bill was recommended to a select committee, fur-

ther to consider and report thereon; and Messrs. **ANDERSON**, **BRADLEY**, and **HILLHOUSE**, were appointed the committee.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act concerning invalid pensioners," in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read and passed to a second reading.

MR. GILMAN, from the committee, reported the bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald McCall, and Isaac Clason, correctly engrossed.

On motion, by **MR. SMITH** of Maryland, that the further consideration thereof be postponed until to-morrow, the votes were equally divided, and the President determined the question in the affirmative.

The Senate resumed, as in Committee of the Whole, the bill to amend an act supplementary to an act, entitled "An act to incorporate the inhabitants of the City of Washington, in the District of Columbia."

On motion, by **MR. SMITH** of Maryland, to postpone the further consideration thereof to the first Monday in December next, it was determined in the affirmative—yeas 14, nays 11, as follows:

YEAS—Messrs. Bayard, Bradley, Brent, Clay, Franklin, Gaillard, Gilman, Horsey, Lambert, Reed, Smith of Maryland, Smith of New York, Tait, and Turner.

NAYS—Messrs. Anderson, Condit, Goodrich, Gregg, Hillhouse, Leib, Lloyd, Meigs, Pickering, Sumter, and Whiteside.

On motion, by **MR. BRENT**, the bill supplementary to an act, entitled "An act concerning the District of Columbia," was postponed to the first Monday in December next.

MR. CLAY presented the petition of Elisha Winters, stating that, in the years 1801, 1802, and 1803, the wilderness from Natchez to Kentucky, and the river Mississippi, was infested by a notorious gang of highway robbers, headed by a certain Samuel Mason, and that the petitioner was the means by which the said Mason was killed, two of his accomplices apprehended and executed, and the remainder of the banditti dispersed, and praying he may be allowed the reward offered for the apprehension of the said Mason by the President of the United States, or by the then Governor of the Mississippi Territory; and the petition was read, and referred to a select committee, to consider and report thereon; and Messrs. **CLAY**, **WHITESIDE**, and **CRAWFORD**, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill for the establishment of a Quartermaster's department; and it was agreed that the further consideration thereof be postponed until to-morrow.

POST OFFICE ESTABLISHMENT.

The bill, entitled "An act regulating the Post Office Establishment," was read the third time as amended.

On motion by **MR. GERMAN**, that it be recom-

APRIL, 1810.

Proceedings.

SENATE.

mitted, for the purpose of adding a new section, it was determined in the negative.

On motion, by Mr. POPE, to fill the first blank with the word "sixty," limiting the number of franked letters, it was determined in the affirmative—yeas 17, nays 14, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Brent, Champlin, Clay, Gaillard, Giles, Horsey, Lambert, Meigs, Pope, Robinson, Smith of Maryland, Smith of New York, Turner, and Whiteside.

NAYS—Messrs. Condit, Crawford, Franklin, German, Gilman, Goodrich, Gregg, Hillhouse, Leib, Lloyd, Pickering, Reed, Sumter, and Tait.

On motion, by Mr. BAYARD, to fill the second blank with the word "forty" it was determined in the affirmative—yeas 21, nays 9, as follows:

YEAS—Messrs. Anderson, Bayard, Brent, Champlin, Clay, Crawford, Gaillard, Giles, Gilman, Gregg, Horsey, Lambert, Leib, Lloyd, Meigs, Pope, Robinson, Smith of Maryland, Smith of New York, Tait, and Whiteside.

NAYS—Messrs. Bradley, Condit, German, Goodrich, Hillhouse, Pickering, Reed, Sumter, and Turner.

On motion, by Mr. BAYARD, it was agreed to fill the third blank with the word "thirty."

On motion, by Mr. BAYARD, to fill the fourth blank with the word "twenty," it was determined in the affirmative—yeas 19, nays 10, as follows:

YEAS—Messrs. Bayard, Brent, Crawford, Franklin, Gaillard, Giles, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Leib, Lloyd, Meigs, Pickering, Smith of Maryland Smith of New York, and Tait.

NAYS—Messrs. Anderson, Bradley, Clay, Condit, German, Pope, Reed, Sumter, Turner, and Whiteside.

On motion, by Mr. SMITH, of Maryland, to fill the fifth blank with the words "three thousand," it was determined in the negative.

On motion, by Mr. SMITH of Maryland, to fill the said blank with the words "twenty-five hundred," it was determined in the negative—yeas 12, nays 18, as follows:

YEAS—Messrs. Brent, Condit, Crawford, Franklin, Gaillard, German, Giles, Gilman, Horsey, Robinson, Smith of Maryland, and Smith of New York.

NAYS—Messrs. Anderson, Bayard, Bradley, Clay, Goodrich, Gregg, Hillhouse, Lambert, Leib, Lloyd, Meigs, Pickering, Pope, Reed, Sumter, Tait, Turner, and Whiteside.

On motion, by Mr. LLOYD, it was agreed to fill the fifth blank with the words "two thousand," the compensation beyond which the postmasters are not to be entitled.

On the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 26, nays 4, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Brent, Clay, Condit, Crawford, Franklin, Gaillard, Giles, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Leib, Lloyd, Meigs, Pickering, Pope, Robinson, Sumter, Tait, Turner, and Whiteside.

NAYS—Messrs. German, Reed, Smith of Maryland, and Smith of New York.

So it was *Resolved*, That this bill pass with amendments.

WEDNESDAY, April 11.

The bill to incorporate the Bank of Washington was read the second time, and the further consideration thereof postponed until the first Monday in December next.

On suggestion, by Mr. GILMAN, that some inaccuracy had taken place in stating the amendments to the bill, entitled "An act regulating the Post Office Establishment;" the Secretary was directed to go with a message to the House of Representatives, and ask the return of the said bill to the Senate, together with the amendments.

The bill, entitled "An act concerning invalid pensioners," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. FRANKLIN, GREGG, and LEIB, were appointed the committee.

Mr. GILMAN, from the committee, reported the amendment to the bill, entitled "An act authorizing the discharge of John Kerr from his imprisonment," correctly engrossed; and the bill was read the third time as amended, and passed.

Mr. BRADLEY, from the committee to whom was referred the bill, entitled "An act for the relief of Amey Dardin, widow and representative of David Dardin, deceased," reported it without amendment.

On motion, by Mr. BAYARD, it was agreed that the bill making provision for the establishment of a National Bank be the order of the day for Friday next.

The Senate resumed the third reading of the bill for the relief of Joseph Summerl, Simon Philipson, William Hamon, Archibald M'Call, and Isaac Clason, as amended. On the question, Shall this bill pass as amended? it was determined in the negative—yeas 14, nays 18, as follows:

YEAS—Messrs. Bayard, Champlin, German, Giles, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Meigs, Pickering, Reed, Smith of Maryland, and Smith of New York.

NAYS—Messrs. Anderson, Bradley, Campbell, Clay, Condit, Crawford, Franklin, Gaillard, Gregg, Lambert, Leib, Mathewson, Pope, Robinson, Sumter, Tait, Turner and Whiteside.

So the bill was lost.

A message from the House of Representatives brought to the Senate, agreeably to request, the bill, entitled "An act regulating the Post Office Establishment," together with the amendments thereto.

Mr. BRADLEY, from the committee to whom was referred the bill, entitled "An act for the relief of Jared Shattuck," reported it without amendment.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of William Baynham; also, a bill, entitled "An act providing for the printing such laws of the United States as respect the public lands," in which bills they desire the concurrence of the Senate.

The Senate resumed, as in Committee of the Whole, the bill for the establishment of a Quartermaster's department, together with the amend-

ments reported thereto by the select committee, and having adopted the amendments, and having further amended the bill, the President reported it to the House accordingly. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. GILMAN, from the committee, reported that they had re-examined the amendments to the bill, entitled "An act regulating the Post Office Establishment," and that they were correctly engrossed; and the Secretary returned the bill, together with the amendments, to the House of Representatives.

The Senate resumed the consideration of the motion made on the 18th of January, for an amendment to the Constitution of the United States respecting titles of nobility, together with the amendments reported by the select committee; and an amendment was submitted by Mr. READ; and, also, an amendment was submitted by Mr. LLOYD; and it was agreed that the further consideration thereof be the order of the day for to-morrow.

On motion, it was agreed that the further consideration of the bill, entitled "An act to examine into the title of the batture in front of the suburb of St. Mary," be the order of the day for to-morrow.

On motion, by Mr. TURNER, the bill, entitled "An act for the relief of John Minor, administrator of Reuben Minor," was referred to a select committee to consider and report thereon; and Messrs. TURNER, GREGG, and SMITH, of New York were appointed the committee.

Mr. LLOYD gave notice that, to-morrow, he should ask leave to bring in a bill to erect a light-house at the entrance of Scituate harbor, a stone column on a spit of sand at the entrance into Boston harbor, and a beacon on Beach point, near Plymouth harbor, in the State of Massachusetts, and a light at the entrance of bayou St. John into Lake Ponchartrain.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to amend an act, entitled 'An act for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia,'" together with the amendment reported thereto by the select committee, and, having agreed to the amendment, the President reported the bill to the House amended accordingly. On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

Mr. BRENT, from the committee on the subject of banks, reported a bill to incorporate the Bank of Potomac; which was read, and passed to the second reading.

Mr. BRADLEY submitted for consideration an amendment to the bill, entitled "An act for the relief of Elizabeth Hamilton; also, an amendment to the bill, entitled 'An act for the relief of Jared Shattuck,'" which were severally read.

The Senate resumed, as in Committee of the Whole, the bill entitled "An act for the relief of John Thompson;" and, after debate, the Senate adjourned.

THURSDAY, April 12.

The bill, entitled "An act for the relief of William Baynham," was read the second time, and passed to the third reading.

The bill to incorporate the Bank of Potomac was read the second time; and, on motion by Mr. ANDERSON, the further consideration thereof was postponed until the first Monday in December next.

Mr. ANDERSON, from the committee to whom was recommitted the bill for the preservation of peace, and the maintenance of the authority of the United States, in the ports, harbors, and waters, under their jurisdiction, reported it with amendments; which were read.

On motion, by Mr. BRADLEY, the bill making further provision for the corps of engineers was referred to a select committee, to consider and report thereon; and Messrs. BRADLEY, GREGG, and SMITH, of New York, were appointed the committee.

Mr. LLOYD asked and obtained leave to bring in a bill to erect a light-house at the entrance of Scituate harbor; a stone column on a spit of sand at the entrance into Boston harbor; and a beacon on Beach Point, near Plymouth harbor, in the State of Massachusetts; a light at the entrance of Bayou St. John, into Lake Pontchartrain; and a light on Bird Island, near the eastern extremity of Lake Erie; which bill was read, and passed to a second reading.

Mr. GILMAN, from the committee, reported the bill for the establishment of a Quartermaster's department, correctly engrossed, and the further consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the motion made on the 18th January, for an amendment to the Constitution of the United States respecting titles of nobility, together with the amendment proposed thereto on the 30th March.

On motion, by Mr. GILES, that the further consideration thereof be postponed to the next session of Congress, it was determined in the negative—yeas 16, nays 18, as follows:

YEAS—Messrs. Anderson, Bradley, Campbell, Condit, Franklin, Gaillard, German, Giles, Gilman, Gregg, Lambert, Mathewson, Meigs, and Robinson.

NAYS—Messrs. Brent, Champlin, Clay, Crawford, Goodrich, Hillhouse, Horsey, Leib, Lloyd, Pickering, Pope, Reed, Smith of Maryland, Smith of New York, Sumter, Tait, Turner, and Whiteside.

Ordered, That the further consideration thereof be postponed until Monday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to establish post roads;" a bill entitled "An act to alter the times of holding the circuit court of the United States for the district of Maryland; also a bill, entitled "An act for the better accommodation of the General Post Office and Patent Office, and for other purposes;" in which bills they desire the concurrence of the Senate.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to examine into

APRIL, 1810.

Proceedings.

SENATE.

the title of the batture, in front of the suburb St. Mary; and a motion was made, by Mr. WHITE-SIDE, that the further consideration thereof be postponed to the first Monday in December next, as instructed by the committee who had the bill under consideration; and, after debate, it was determined in the negative.

The bill, entitled "An act providing for the printing and distributing of such laws of the United States as respect the public lands," was read the second time.

FRIDAY, April 13.

The three bills last brought up yesterday for concurrence were read, and severally passed to the second reading.

On motion, by Mr. SMITH of Maryland,

Resolved, That the Secretary for the Department of the Treasury be directed to report to the Senate the amount of the outstanding revenue bonds on the first day of January last, with the probable expenses of collecting the same; and the amount of the balance then remaining in the Treasury of the United States.

Mr. BRADLEY, from the committee to whom was referred the bill making further provision for the corps of engineers, reported it with an amendment.

The bill, entitled "An act to establish post roads," was read the second time by unanimous consent.

The bill, entitled "An act providing for the better accommodation of the General Post Office and Patent Office, and for other purposes," was read the second time by unanimous consent, and referred to a select committee, to consider and report thereon; and Messrs. SMITH of Maryland, GREGG, and BRADLEY, were appointed the committee.

The bill to erect a light-house at the entrance of Scituate harbor; a stone column on the spit of sand at the entrance into Boston harbor; and a beacon on Beach Point, near Plymouth harbor, in the State of Massachusetts; a light at the entrance of Bayou St. John, into Lake Pontchartrain; and a light on Bird Island, near the eastern extremity of Lake Erie; was read the second time, and referred to a select committee, to consist of five members, to consider and report thereon; and Messrs. LLOYD, SMITH of Maryland, GREGG, BRADLEY, and MEIGS, were appointed the committee.

On motion, by Mr. BRENT, the bill, entitled "An act to amend the act, entitled 'An act for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia,'" was recommitted to a select committee, further to consider and report thereon; and Messrs. BRENT, ROBINSON, and POPE, were appointed the committee.

A message from the House of Representatives informed the Senate that the House agree to some, and disagree to other, amendments of the Senate to the bill, entitled "An act regulating the Post Office Establishment.

The Senate proceeded to consider the amendments disagreed to by the House of Representatives to the bill, entitled "An act regulating the Post Office Establishment;" and, on motion by Mr. ANDERSON,

Resolved, That they insist on their fourth amendment; that they recede from their sixth and eighth amendments; and agree to the modification of the ninth amendment.

The bill for the establishment of a Quartermaster's department was read the third time as amended; and some of the blanks having been filled; on motion, by Mr. PICKERING, the bill was recommitted to a select committee, further to consider and report thereon; and Messrs. PICKERING, ANDERSON, and LEIB, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of John Thompson;" and, on motion by Mr. HILLHOUSE, the further consideration thereof was postponed.

On motion, by Mr. HILLHOUSE,

Resolved, That the petition of John Thompson, together with his account against the United States for moneys advanced in the Revolutionary war, and the vouchers accompanying the same, be referred to the Secretary for the Department of the Treasury, to examine and report the facts and his opinion thereon.

Mr. PICKERING, from the committee to whom was recommitted the bill for the establishment of a Quartermaster's department, reported it with amendments.

The bill, entitled "An act for the relief of William Baynham," was read the third time, and passed.

The Senate resumed, as in Committee of the Whole, the bill concerning the society of the order of La Trappe; and, having amended the bill, the President reported it to the House accordingly. On the question, Shall this bill be engrossed and read the third time as amended? it was determined in the affirmative.

SATURDAY, April 14.

Mr. BRENT, from the committee to whom was recommitted the bill, entitled "An act to amend an act, entitled 'An act for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia,'" reported it with an amendment; which was considered as in Committee of the Whole and agreed to; and the President reported the bill to the House accordingly. On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

On motion, by Mr. SMITH of Maryland, it was agreed that the further consideration of the bill making provision for the establishment of a National Bank, be the order of the day for Monday next.

The bill, entitled "An act to alter the times of holding the circuit court of the United States for the district of Maryland," was read the second time, and referred to a select committee, to con-

SENATE.

Batture at New Orleans.

APRIL, 1810.

sider and report thereon; and Messrs. SMITH of Maryland, HORSEY, and CLAY, were appointed the committee.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Margaret Lapsley, Grove Pomeroy, Arthur St. Clair, David Blackwell, Lucy Dixon, and John Murray," in which bill they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to a second reading.

Mr. FRANKLIN, from the committee to whom was referred the bill, entitled "An act concerning invalid pensioners," reported it with amendments.

Mr. GILMAN, from the committee, reported the bill concerning the society of the order of La Trappe," correctly engrossed; and the bill was read the third time, and passed.

The Senate resumed, as in Committee of the Whole, the bill for the establishment of a Quartermaster's department, together with the amendments reported thereto; and, having agreed to the amendments, the President reported the bill to the House accordingly. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. LLOYD, from the committee to whom was referred the bill for the erection of certain light-houses, reported it with amendments; which were read and considered, as in Committee of the Whole, and agreed to; and the President reported the bill to the House accordingly. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative.

Mr. ANDERSON, from the committee appointed on the 30th of March, on the subject of Indian trading-houses, reported sundry letters relative thereto; which were ordered to be printed.

On motion, by Mr. SMITH, of Maryland, the bill, entitled "An act to establish post roads," was referred to a select committee, to consider and report thereon, and Messrs. SMITH, of Maryland, GERMAN, and CHAMPLIN, were appointed the committee.

The PRESIDENT communicated a letter directed to him, and signed Richard Bland Lee, on the subject of his claim for compensation; which was referred to the committee to whom was re-committed, on the 2d instant, Mr. Lee's petition and the papers accompanying it.

A message from the House of Representatives informed the Senate that the House insist on their disagreement to the fourth amendment of the Senate to the bill, entitled "An act regulating the Post Office Establishment;" they ask a conference on the subject, and have appointed managers on their part. The House of Representatives have passed a bill, entitled "An act providing for the sale of certain lands in the Indiana Territory, and for other purposes; in which bill they desire the concurrence of the Senate.

Mr. GILMAN, from the committee, reported the bill for the establishment of a Quartermaster's

department, correctly engrossed. He, also, reported, from the committee, the bill for the erection of certain light-houses correctly engrossed; and, on motion by Mr. LLOYD, the bill last mentioned was, by unanimous consent, read a third time, and the title amended.

Resolved, That this bill pass, and that the title thereof be "An act to erect a light-house at the entrance of Scituate harbor; a stone column on a spit of sand at the entrance into Boston harbor; and a beacon on Beach Point, near Plymouth harbor, in the State of Massachusetts; a light at the entrance of the Bayou St. John, into Lake Pontchartrain, and two lights on Lake Erie."

BATTURE AT NEW ORLEANS.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to examine into the title of the batture in front of the suburb St. Mary."

On motion, by Mr. ANDERSON, to strike out, section 1, lines 21 and 22, the following words: "together with their opinion thereon, respecting the title aforesaid:" it was determined in the affirmative—yeas 17, nays 14, as follows:

YEAS—Messrs. Anderson, Bradley, Campbell, Crawford, Franklin, Gaillard, Gilman, Gregg, Hillhouse, Lloyd, Mathewson, Meigs, Pickering, Robinson, Tait, Turner, and Whiteside.

NAYS—Messrs. Brent, Champlin, Clay, Condit, German, Goodrich, Horsey, Lambert, Leib, Pope, Reed, Smith of Maryland, Smith of New York, and Sumter.

On motion, by Mr. CLAY, to insert, in lieu of the words stricken out, the following words: "together with the laws, usages, edicts, or customs, upon which the said title may depend, and which they shall also collect and arrange:" it was determined in the affirmative—yeas 18, nays 13, as follows:

YEAS—Messrs. Brent, Champlin, Clay, Condit, Gaillard, German, Gilman, Goodrich, Horsey, Lambert, Leib, Meigs, Pope, Reed, Smith of Maryland, Smith of New York, Tait, and Whiteside.

NAYS—Messrs. Anderson, Bradley, Campbell, Crawford, Franklin, Gregg, Hillhouse, Lloyd, Mathewson, Pickering, Robinson, Sumter, Tait, Turner, and Whiteside.

The bill having been further amended, the President reported it to the House accordingly. On the question, Shall this bill be read a third time as amended? it was determined in the affirmative—yeas 15, nays 15, as follows:

YEAS—Messrs. Brent, Champlin, Clay, Condit, Gaillard, German, Gilman, Goodrich, Horsey, Leib, Meigs, Pope, Reed, Smith of Maryland, and Smith of New York.

NAYS—Messrs. Anderson, Bradley, Crawford, Franklin, Gregg, Hillhouse, Lambert, Lloyd, Mathewson, Pickering, Robinson, Sumter, Tait, Turner, and Whiteside.

The Senate being equally divided, the PRESIDENT determined the question in the affirmative.

MONDAY, April 16.

On motion, by Mr. BRADLEY, the bill, entitled "An act for the relief of William W. Weymouth and Joseph P. Weeks," was referred to a select

APRIL, 1810.

Proceedings.

SENATE.

committee, to consider and report thereon; and Messrs. BRADLEY, POPE, and GREGG, were appointed the committee.

Mr. SMITH, of Maryland, presented the petition of Peter F. Duberery, stating that he is owner of the brigantine Alexandrine, seized for an alleged breach of the revenue laws, and praying relief, for reasons stated at large in the petition; which was read, and referred to the committee last mentioned, to consider and report thereon.

The bill brought up, on Saturday last from the House of Representatives, entitled "An act providing for the sale of certain lands in the Indiana Territory, and for other purposes," was read and passed to the second reading.

Mr. BRADLEY, from the committee to whom was referred the bill, entitled "An act authorizing a detachment from the militia of the United States," reported it without amendment.

The bill, entitled "An act for the relief of Margaret Lapsley, Grove Pomeroy, Arthur St. Clair, David Blackwell, Lucy Dixon, and John Murray," was read the second time, and referred to a select committee to consider and report thereon; and Messrs. CRAWFORD, LEIB, and BRADLEY, were appointed the committee.

The bill, entitled "An act to examine into the title of the batture in front of the suburb St. Mary," was read the third time.

On the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 16, nays 15, as follows:

YEAS—Messrs. Bayard, Brent, Champlin, Condit, Gaillard, German, Gilman, Goodrich, Horsey, Leib, Meigs, Pope, Reed, Smith of Maryland, and Smith of New York.

NAYS—Messrs. Anderson, Bradley, Crawford, Franklin, Giles, Gregg, Hillhouse, Lambert, Lloyd, Pickering, Robinson, Sumter, Tait, Turner, and Whiteside.

So it was *Resolved*, That this bill pass with amendments.

The bill for the establishment of a Quartermaster's department was read the third time as amended; and the blank having been filled with the words "fifteen hundred," it was

Resolved, That this bill pass, and that the title thereof be "An act for the establishment of a Quartermaster's department."

The Senate took into consideration the resolution of the House of Representatives requesting a conference on the disagreeing votes of the two Houses on the bill, entitled "An act regulating the Post Office Establishment;" and, having agreed thereto, Messrs. GOODRICH, FRANKLIN, and REED, were appointed the managers on the part of the Senate.

The engrossed bill, entitled "An act to amend an act, entitled 'An act for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia,'" was read the third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the bill making provision for the establishment of a National Bank; and, after debate, the Senate adjourned.

TUESDAY, April 17.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tem.*, as the Constitution provides; and the Hon. JOHN GAILLARD was elected.

Ordered, That the Secretary wait on the President of the United States, and acquaint him that the Senate have, in the absence of the VICE PRESIDENT, elected the Hon. JOHN GAILLARD, President of the Senate *pro tempore*.

Ordered, That the Secretary make a like communication to the House of Representatives.

Mr. MEIGS presented the petition of Robert Robinson, stating that on the first of January, 1805, he was appointed clerk to the Board of Commissioners (of land claims) in the district of Kaskaskia, and that he continued to discharge the duties of that office until the final adjudication of the claims pending, and praying compensation for his services, for reasons stated at large in the petition; which was read, and referred to a select committee to consider and report thereon by bill or otherwise; and Messrs. MEIGS, BRADLEY, and FRANKLIN, were appointed the committee.

Mr. CLAY, from the committee to whom was referred, on the 10th instant, the petition of Elisha Winters, made report; and the report was read.

Mr. BAYARD presented the resolution of the Legislature of the State of Delaware, disapproving the proposition of the Legislature of the State of Massachusetts for an amendment to the Constitution of the United States on the subject of embargoes; which was read.

Mr. CLAY presented the petition of William Harding, senior, of the State of Kentucky, praying compensation for his expenditures during the late Indian war in the Western country; and, also, for personal services and sufferings, as stated at large in his petition, which was read, and referred to a select committee to consider and report thereon; and Messrs. CLAY, HILLHOUSE, and BRADLEY, were appointed the committee.

Mr. WHITESIDE, from the committee appointed on the subject, reported a bill supplementary to an act, entitled "An act for the relief of persons imprisoned for debt;" which was read and passed to the second reading.

The bill, entitled "An act providing for the sale of certain lands in the Indiana Territory, and for other purposes," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. ANDERSON, HILLHOUSE, and GREGG, were appointed the committee.

Mr. GERMAN gave notice that, to-morrow, he should ask leave to bring in a bill for the relief of Isaac Clason.

The Senate resumed, as in Committee of the Whole, the bill making provision for the establishment of a National Bank; and a motion was made, by Mr. HILLHOUSE, to strike out the first section of the bill; and a proposition was also made, by Mr. POPE, to strike out, after the enacting words, the residue of the bill, for the purpose of introducing a substitute; and, after debate, it

was agreed that the further consideration of the bill be postponed until to-morrow.

REVENUE BONDS.

The PRESIDENT communicated a statement from the Secretary for the Department of the Treasury of the outstanding revenue bonds, made in obedience to the resolution of the Senate of the 13th instant. The letter is as follows:

TREASURY DEPARTMENT, *April 16, 1810.*

SIR: I have the honor, in obedience to the resolution of the Senate, of the 13th instant, to transmit a statement of the outstanding revenue bonds, amounting, on the first day of January last, to \$9,600,000. But in that are included all the bad debts which have accrued on revenue bonds, from the commencement of this Government to that day. These, together with the debentures issued prior to the first day of January last, and remaining unpaid on that day, are estimated at one million of dollars at least, and must be deducted from that nominal amount. The expenses of collection may be estimated at about \$400,000.

The balance remaining in the Treasury on the first day of January last, amounted to \$3,817,976 54.

It may not be improper to add, that the estimates of the probable receipts of this year, as stated in the annual report made at the commencement of the present session of Congress, will not, so far as is now known, differ materially from the actual receipts, unless the exportations of foreign produce should exceed what had been presumed. The total amount of debentures, payable in the year 1810, had been there estimated at two millions of dollars, and those paid before the first of April, amounted already to \$1,360,000.

I have the honor to be, &c.,

ALBERT GALLATIN.

The letter was read, and ordered to lie for consideration.

WEDNESDAY, April 18.

A message from the House of Representatives informed the Senate that the House disagree to the amendments of the Senate to the bill, entitled "An act to examine into the title of the batture in front of the suburb St. Mary." They have passed a bill, entitled "An act to allow the benefit of drawback on merchandise transported by land conveyance from Newport to Boston, and from Boston to Newport, in like manner as if the same were transported coastwise; in which bill they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

Mr. GERMAN asked and obtained leave to bring in a bill for the relief of Isaac Clason; which was read and passed to the second reading.

The bill supplementary to an act, entitled "An act for the relief of persons imprisoned for debt," was read the second time.

On the question, Shall this bill be engrossed and read a third time? it was determined in the affirmative.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act to establish post roads," reported it with amendments.

The Senate proceeded to consider the amendments disagreed to by the House of Representatives to the bill, entitled "An act to examine into the title to the batture in front of the suburb St. Mary."

On motion, by Mr. WHITESIDE, that the further consideration thereof be postponed to the first Monday in December next, it was determined in the negative—yeas 13, nays 17, as follows:

YEAS—Messrs. Anderson, Bradley, Campbell, Crawford, Franklin, Gregg, Hillhouse, Mathewson, Pickering, Sumter, Tait, Turner, and Whiteside.

NAYS—Messrs. Bayard, Brent, Champlin, Clay, Condit, Gaillard, German, Giles, Gilman, Goodrich, Horsey, Lambert, Leib, Lloyd, Reed, Smith of Maryland, and Smith of New York.

On motion, by Mr. CLAY, that the Senate recede from their amendments to the said bill, Mr. POPE called for a division of the question; and it was taken on their first amendment, and determined in the negative—yeas 10, nays 22, as follows:

YEAS—Messrs. Bayard, Brent, Champlin, Clay, Condit, German, Gilman, Goodrich, Horsey, and Smith of New York.

NAYS—Messrs. Anderson, Bradley, Campbell, Franklin, Gaillard, Giles, Gregg, Hillhouse, Lambert, Leib, Lloyd, Mathewson, Meigs, Pickering, Pope, Reed, Smith of Maryland, Sumter, Tait, Turner, and Whiteside.

On motion, by Mr. CLAY, that the Senate recede from their other amendments to the said bill, it was determined in the negative—yeas 13, nays 19, as follows:

YEAS—Messrs. Bayard, Brent, Champlin, Clay, Condit, German, Goodrich, Horsey, Lambert, Pope, Reed, Smith of Maryland, and Smith, of New York.

NAYS—Messrs. Anderson, Bradley, Campbell, Crawford, Franklin, Gaillard, Giles, Gilman, Gregg, Hillhouse, Leib, Lloyd, Mathewson, Meigs, Pickering, Sumter, Tait, Turner, and Whiteside.

On motion, by Mr. BRADLEY, Resolved, That the Senate adhere to their amendments to the said bill.

The PRESIDENT communicated a report of the Secretary for the Department of the Treasury on the petition of John Thompson, made in pursuance of the resolution of the Senate of the 13th instant; which was read, and ordered to lie for consideration.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of John Thompson;" and on the question, Shall this bill be read a third time? it was determined in the affirmative—yeas 21, nays 8, as follows:

YEAS—Messrs. Anderson, Bayard, Bradley, Brent, Campbell, Champlin, Clay, Condit, Gaillard, German, Giles, Gilman, Gregg, Horsey, Lambert, Mathewson, Meigs, Pope, Reed, Smith of Maryland, and Sumter.

NAYS—Messrs. Crawford, Franklin, Hillhouse, Leib, Pickering, Smith of New York, Tait, and Turner.

The Senate resumed, as in Committee of the Whole, the consideration of the amendments reported by the select committee to the bill, entitled "An act concerning invalid pensioners; and having agreed thereto, the PRESIDENT reported the

APRIL, 1810.

National Bank.

SENATE.

bill to the House amended accordingly. On the question, Shall this bill be read a third time as amended? it was determined in the affirmative.

After debate, it was agreed that the further consideration of the bill be postponed until to-morrow.

Mr. SMITH, of Maryland, presented the petition of Mary S. Tyson, of Baltimore, stating that she is possessed of a loan office certificate for the sum of two thousand dollars, which remains unliquidated and outstanding, and praying relief; and the petition was read, and referred to the committee to whom was referred, on the sixteenth instant, the bill, entitled "An act for the relief of Margaret Lapsley and others," to consider and report thereon.

NATIONAL BANK.

The Senate resumed, as in Committee of the Whole, the bill making provision for the establishment of a National Bank.

On motion, by Mr. HILLHOUSE, to strike out the first section of the bill, the Senate was equally divided—yeas 15, nays 15, as follows:

YEAS—Messrs. Brent, Champlin, German, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Meigs, Pickering, Pope, Reed, Smith of New York, Tait, and Whiteside.

NAYS—Messrs. Anderson, Bayard, Bradley, Clay, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Lambert, Leib, Smith of Maryland, Sumter, and Turner.

So the question was lost.

THURSDAY, April 19.

Mr. LEIB submitted the following motion:

Resolved, That the Secretary of the Senate be authorized to pay, out of the contingent fund of this House, to Henry Miller, Tobias Simpson, and Bayley Hudson, the sum of — dollars each, in addition to their usual compensation.

Mr. GOODRICH, from the managers at the conference on the bill, entitled "An act regulating the Post Office Establishment," reported that they could come to no agreement with the managers on the part of the House of Representatives.

Mr. GILES, from the committee to whom were referred two resolutions of the 6th instant, made report; which was read. Whereupon, the committee was discharged from the further consideration of the subject.

The bill for the relief of Isaac Clason was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. BAYARD, BRADLEY, and GERMAN, were appointed the committee.

The bill, entitled "An act to allow the benefit of drawback on merchandise transported by land conveyance from Newport to Boston, and from Boston to Newport, in like manner as if the same were transported coastwise," was read the second time, and ordered to the third reading.

The Senate resumed the consideration of the bill, entitled "An act for the relief of Moses Young;" and, after debate, the bill was passed to the third reading.

Mr. GILMAN, from the committee, reported the

bill supplementary to an act, entitled "An act for the relief of persons imprisoned for debt," correctly engrossed, and the bill was read the third time, and the blank having been filled with the word "eight," on the question, Shall this bill pass? it was determined in the affirmative—yeas 14, nays 13, as follows:

YEAS—Messrs. Bayard, Brent, Campbell, Champlin, Franklin, Gaillard, Gregg, Leib, Mathewson, Pope, Robinson, Smith of Maryland, Tait, and Whiteside.

NAYS—Messrs. Condit, Crawford, German, Giles, Goodrich, Hillhouse, Horsey, Lambert, Lloyd, Pickering, Reed, Smith of New York, and Turner.

So it was *Resolved*, That this bill pass, and that the title thereof be "An act supplementary to an act, entitled 'An act for the relief of persons imprisoned for debt.'"

Mr. GILMAN, from the committee, also reported the amendments to the bill, entitled "An act concerning invalid pensioners," correctly engrossed; and the bill was read the third time as amended; and, on motion, by Mr. POPE, further amended by unanimous consent.

Resolved, That this bill pass with amendments.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of Elizabeth Hamilton," together with the amendment proposed thereto; and, after debate, the further consideration thereof was postponed until to-morrow.

The bill, entitled "An act for the relief of John Thompson," was read the third time. On the question, Shall this bill pass? it was determined in the negative.

A message from the House of Representatives informed the Senate that the House have passed a resolution rescinding the resolution of the 4th of April, fixing the time for the adjournment of Congress to the 23d instant, and authorizing the President of the Senate and Speaker of the House of Representatives to adjourn their respective Houses on the first day of May next; in which resolution they desire the concurrence of the Senate.

The resolution last brought up for concurrence was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes; and on motion, by Mr. CLAY, the further consideration thereof was made the order of the day for to-morrow.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to establish post roads," together with the amendments proposed thereto; and, having agreed to the amendments reported by the select committee, and further amended the bill, the President reported it to the House accordingly. On the question, Shall this bill be read the third time as amended? it was determined in the affirmative.

And the Senate adjourned.

SENATE.

Territory of Orleans.

APRIL, 1810.

FRIDAY, April 20.

The resolution to authorize the Secretary of the Senate to pay, out of the contingent fund, to Henry Miller and others — dollars each; was read the second time.

On motion, by Mr. TURNER, to amend the resolution, so as to include the Chaplains, it passed in the negative.

Ordered, That the resolution pass to a third reading.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and passed to the second reading.

Mr. GILMAN, from the committee, reported the amendments to the bill, entitled "An act to establish post roads," correctly engrossed; and the bill was read the third time as amended; and, on motion, by Mr. TURNER, it was agreed, by unanimous consent, further to amend the bill.

Resolved, That this bill pass with amendments. The resolution of the House of Representatives, prolonging the session to the first day of May next, was read the second time, and passed to the third reading.

The Senate resumed the consideration of the motion made on the 18th of January, for an amendment to the Constitution of the United States respecting titles of nobility, together with the amendments proposed thereto; and, after debate, on motion, by Mr. BRADLEY, the further consideration thereof was postponed; and, on motion, by Mr. REED, made the order of the day for Monday next.

The bill, entitled "An act to allow the benefit of drawback on merchandise transported by land conveyance from Newport to Boston, and from Boston to Newport, in like manner as if the same were transported coastwise," was read the third time, and passed.

The bill, entitled "An act for the relief of Moses Young," was read the third time, and passed.

Mr. CRAWFORD, from the committee to whom was referred the bill, entitled "An act for the relief of Margaret Lapsley, Grove Pomeroy, Arthur St. Clair, David Blackwell, Lucy Dixon, and John Murray," reported it without amendment.

TERRITORY OF ORLEANS.

The Senate resumed, as in Committee of the Whole, the bill to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes; and, on motion, by Mr. CLAY, to amend the bill, by adding, at the end of the third section, the following words:

"Provided, further, That the said convention shall,

by an article in the constitution so to be formed, irrevocable without the consent of the United States, provide, that, after the admission into the Union of the said Territory of Orleans as a State, the laws which such State may pass shall be promulgated, and its records of every description shall be preserved, and its written, judicial, and legislative proceedings conducted, in the language in which the laws and the written, judicial, and legislative proceedings of the United States are now published and conducted:"

It was determined in the affirmative—yeas 17, nays 12, as follows:

YEAS—Messrs. Bayard, Campbell, Champlin, Clay, Giles, Gilman, Goodrich, Horsey, Lambert, Leib, Lloyd, Meigs, Pickering, Pope, Smith of Maryland, Smith of New York, and Turner.

NAYS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, German, Gregg, Hillhouse, Reed, Sumter, and Whiteside.

And a further amendment was proposed by Mr. HORSEY; and, on his motion, the Senate adjourned.

SATURDAY, April 21.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act to alter the times of holding the circuit court of the United States, for the district of Maryland," reported it without amendment.

The bill, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," was read the second time, and referred to a select committee, to consist of five members, to consider and report thereon; and Messrs. SMITH of Maryland, CRAWFORD, ANDERSON, LEIB, and BRADLEY, were appointed the committee.

Mr. SMITH, of Maryland, asked and obtained leave to bring in a bill to authorize the President of the United States to employ the public armed ships in protecting the commerce of the United States; which bill was read, and passed to the second reading.

Mr. ANDERSON, from the committee to whom was referred the bill, entitled "An act providing for the sale of certain lands in the Indiana Territory, and for other purposes," reported it with amendments.

The Senate resumed, as in Committee of the Whole, the bill to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes.

On motion, by Mr. WHITESIDE, the bill was re-committed to a select committee, to consist of five members, further to consider and report thereon; and Messrs. GILES, WHITESIDE, CRAWFORD, GREGG, and GOODRICH, were appointed the committee.

The resolution of the 19th instant, authorizing the Secretary of the Senate to pay, out of the contingent fund, to Henry Miller and others, — dollars each, was read the third time, and the

APRIL, 1810.

National Bank—Non-Intercourse.

SENATE.

blank filled with the word "thirty;" and, on the question to agree thereto, it was determined in the affirmative.

The resolution from the House of Representatives, rescinding the resolution of the 4th of April, on the subject, and prolonging the session to the first day of May next, was read the third time, and agreed to.

NATIONAL BANK.

The Senate resumed, as in Committee of the Whole, the bill making provision for the establishment of a National Bank.

On motion, by Mr. HILLHOUSE, to amend the bill, by adding, at the end of the second section thereof, as amended, the following words:

"Provided, also, and be it further enacted, That no subscription for shares, excepting on behalf of the United States or individual States, shall be received until — dollars for every share to be subscribed shall have been deposited in the hands of the persons appointed to superintend the subscriptions; which deposits to the amount of — dollars on each share, which subscribers under this act shall be entitled to hold, shall be paid into the Treasury of the United States, for the use and benefit of the United States, and the residue of such deposits shall be returned to the subscribers of supernumerary shares, who shall have deposited the same:"

It was determined in the negative—yeas 10, nays 18, as follows:

YEAS—Messrs. Campbell, Champlin, Clay, German, Goodrich, Hillhouse, Pickering, Pope, Reed, and Whiteside.

NAYS—Messrs. Anderson, Bayard, Bradley, Condit, Crawford, Franklin, Gaillard, Gilman, Gregg, Horsey, Lambert, Leib, Lloyd, Robinson, Smith of Maryland, Smith of New York, Tait, and Turner.

And having agreed to sundry amendments to the bill, on motion, the Senate adjourned.

MONDAY, April 23.

The bill to authorize the President of the United States to employ the public armed ships in protecting the commerce of the United States, was read the second time, and referred to the committee to whom was referred, on the 21st instant, the bill, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," to consider and report thereon.

The Senate resumed the consideration of the bill for continuing the charter of the Bank of Alexandria, in the District of Columbia. On the question, Shall this bill be engrossed, and read the third time? it was determined in the affirmative.

The Senate resumed the consideration of the bill, entitled "An act providing for the printing and distribution of such laws of the United States as respect the public lands." On the question, Shall this bill be read the third time? it was determined in the affirmative.

The Senate resumed, as in Committee of the

Whole, the bill, entitled "An act for the relief of Elizabeth Hamilton," together with the amendment proposed thereto; and by permission, Mr. BRADLEY having withdrawn his amendment, on the question, Shall this bill be read the third time? it was determined in the negative—yeas 12, nays 16, as follows:

YEAS—Messrs. Bayard, Champlin, Giles, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Meigs, Pickering, Reed, and Smith of Maryland.

NAYS—Messrs. Anderson, Bradley, Condit, Crawford, Franklin, Gaillard, German, Gregg, Lambert, Leib, Mathewson, Robinson, Smith of New York, Tait, Turner, and Whiteside.

So the bill was lost.

TUESDAY, April 24.

Mr. GILMAN, from the committee, reported the bill for continuing the charter of the Bank of Alexandria, in the District of Columbia, correctly engrossed; and the bill was read the third time, and passed.

Mr. LEIB presented the resolution of the Legislature of the State of Pennsylvania, disapproving the proposition of the Legislature of the State of Massachusetts for an amendment to the Constitution of the United States on the subject of embargoes; which was read.

Mr. MEIGS, from the committee to whom was referred, on the 17th instant, the petition of Robert Robinson, reported a bill allowing compensation to Robert Robinson; which bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act providing for the better accommodation of the General Post Office and Patent Office, and for other purposes."

Ordered, That this bill pass to a third reading.

Mr. BAYARD, from the committee to whom was referred the bill for the relief of Isaac Clason, reported it with an amendment.

The bill, entitled "An act providing for the printing and distribution of such laws of the United States as respect the public lands," was read the third time, and passed.

NON-INTERCOURSE.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill, entitled "An act concerning commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," reported the same with the following amendments:

"SEC. 1, line 2—Strike out from the word 'that,' to the end of the section, and insert, 'from and after the passage of this act, no British or French armed vessel shall be admitted to enter the harbors or waters under the jurisdiction of the United States; but every British and French armed vessel is hereby interdicted, except when they shall be forced in by distress, by the dangers of the sea, or when charged with despatches or business from their Government, or coming as a public packet for the conveyance of letters; in which case, as well as in all others, when they shall be permitted to enter, the commanding officer shall immedi-

SENATE.

National Bank.

APRIL, 1810.

ately report his vessel to the collector of the district, stating the object or causes of his entering the harbors or waters of the United States; and shall take such position therein as shall be assigned him by such collector, and shall conform himself, his vessel and crew, to such regulations respecting health, repairs, supplies, stay, intercourse, and departure, as shall be signified to him by the said collector, under the authority and direction of the President of the United States, and not conforming thereto, shall be required to depart from the United States."

Strike out the second, third, and fourth sections, and insert—

"SEC. 2. *And be it further enacted*, That all pacific intercourse with any interdicted foreign armed vessels, the officers or crew thereof, is hereby forbidden; and if any person shall afford any aid to such armed vessel, either in repairing her, or in furnishing her, her officers or crew with supplies, of any kind or in any manner whatsoever, or if any pilot shall assist in navigating the said armed vessel, contrary to this prohibition, unless for the purpose of carrying her beyond the limits and jurisdiction of the United States, the person or persons so offending, shall be liable to be bound to their good behaviour, and shall moreover forfeit and pay a sum not exceeding two thousand dollars, to be recovered upon indictment or information, in any court of competent jurisdiction; one moiety thereof to the Treasury of the United States, and the other moiety to the person who shall give information and prosecute the same to effect: *Provided*, That if the prosecution shall be by a public officer, the whole forfeiture shall accrue to the Treasury of the United States."

"SEC. 3. *And be it further enacted*, That the President of the United States be, and hereby is, authorized to employ the public armed vessels in protecting the commerce of the United States, and to issue instructions, which shall be conformable to the laws and usages of nations, for the government of the ships which may be employed in that service."

"SEC. 5.—Strike out from the word "*aforsaid*," in the 17th line, to the end of the section."

NATIONAL BANK.

The Senate resumed, as in Committee of the Whole, the bill making provision for the establishment of a National Bank.

On motion, by Mr. BAYARD, to fill the blank, 6th section, line 3d, with the word "eighteen," being the directors to be elected by the stockholders, it was determined in the negative—yeas 15, nays 17, as follows:

YEAS—Messrs. Bayard, Bradley, Champlin, Condit, Crawford, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Pickering, Reed, Smith of New York, Tait, and Turner.

NAYS—Messrs. Anderson, Brent, Clay, Franklin, Gaillard, German, Giles, Gregg, Lambert, Leib, Mathewson, Meigs, Pope, Robinson, Smith of Maryland, Sumter, and Whiteside.

On motion, by Mr. LEIB, to insert, after the word "hand," in the 187th line of the 9th section of the amended bill, the following words: "And Congress shall be furnished annually at the commencement of each session with such statements;" it was determined in the negative—yeas 5, nays 24, as follows:

YEAS—Messrs. Leib, Pickering, Reed, Smith of Maryland, and Whiteside.

NAYS—Messrs. Anderson, Bayard, Bradley, Brent, Champlin, Clay, Condit, Crawford, Franklin, Gaillard, German, Gilman, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Lloyd, Mathewson, Pope, Smith of New York, Sumter, Tait, and Turner.

On motion, by Mr. POPE, to strike out the residue of the 13th section, after the words "United States," in the sixth line; and, also, the whole of the 14th section, and insert the following words in lieu thereof: "to an amount not exceeding ten millions of dollars, to be paid in such manner as may be provided by law, at least six millions of which, to be paid by the United States, shall be transferred to the several States, in such proportions and subject to such regulations, as Congress may prescribe." Whereupon,

Mr. HILLHOUSE called for a division of the question, and it was taken on striking out, and determined in the negative—yeas 6, nays 19, as follows:

YEAS—Messrs. Anderson, Champlin, Clay, Leib, Pope, and Smith of Maryland.

NAYS—Messrs. Bayard, Bradley, Condit, Crawford, Franklin, Gaillard, German, Goodrich, Gregg, Hillhouse, Horsey, Lambert, Lloyd, Mathewson, Pickering, Reed, Smith of New York, Sumter, and Turner.

And having agreed to sundry amendments to the bill, the Senate adjourned.

WEDNESDAY, April 25.

Mr. GILES submitted the following motion:

Resolved, That the Secretary of the Treasury be directed to lay before the Senate a statement of all claims which have been adjusted and allowed at the Treasury Department in virtue of the law, entitled "An act providing for the settlement of the claims of persons under particular circumstances barred by the limitations heretofore established."

The Senate resumed, as in Committee of the Whole, the bill for the relief of Isaac Clason, together with the amendment reported thereto by the select committee; and having agreed to the amendment, the President reported the bill to the House accordingly. On the question, Shall this bill be engrossed, and read a third time as amended? it was determined in the negative—yeas 12, nays 17, as follows:

YEAS—Messrs. Bayard, Clay, German, Giles, Goodrich, Horsey, Mathewson, Meigs, Reed, Robinson, Smith of Maryland, and Smith of New York.

NAYS—Messrs. Anderson, Bradley, Champlin, Condit, Crawford, Franklin, Gaillard, Gilman, Hillhouse, Lambert, Leib, Lloyd, Pickering, Pope, Sumter, Turner, and Whiteside.

The bill allowing compensation to Robert Robinson was read the second time. On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

The Senate resumed the bill, entitled "An act to alter the times of holding the circuit court of the United States for the district of Maryland," and the further consideration thereof was postponed until the first Monday in December next.

APRIL, 1810.

Territory of Orleans—Titles of Nobility, &c.

SENATE.

The bill, entitled "An act providing for the better accommodation of the General Post Office and Patent Office, and for other purposes," was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing a loan of money, for a sum not exceeding the amount of the principal of the public debt, reimbursable during the year 1810;" in which bill they desire the concurrence of the Senate. The said bill was read, and passed to the second reading.

Mr. GILES, from the committee to whom was referred the bill to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes, reported it with amendments.

The Senate resumed, as in Committee of the Whole, the bill making provision for the establishment of a National Bank. And on motion by Mr. BAYARD, that the further consideration thereof be postponed until the first Monday in December next, it was determined in the affirmative—yeas 17, nays 14, as follows:

YEAS—Messrs. Bayard, Bradley, Brent, Champlin, Crawford, German, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Pickering, Pope, Reed, Smith of New York, Sumter, and Turner.

NAYS—Messrs. Anderson, Clay, Condit, Franklin, Gaillard, Giles, Gregg, Lambert, Leib, Mathewson, Meigs, Robinson, Smith of Maryland, and Whiteside.

THURSDAY, April 26.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act providing for the sale of certain lands in the Indiana Territory, and for other purposes;" and, having agreed to the amendments reported by the select committee, the PRESIDENT reported it to the House accordingly; and on the question, Shall this bill be read the third time as amended? it was determined in the affirmative.

Mr. GILMAN, from the committee, reported the bill allowing compensation to Robert Robinson correctly engrossed; and the bill was read the third time; and the blank having been filled with the words *five hundred*—

Resolved, That this bill pass, and that the title thereof be "An act allowing compensation to Robert Robinson."

The Senate resumed the motion made yesterday on the subject, which was amended and agreed to, as follows:

Resolved, That the Secretary of the Treasury be directed to lay before the Senate a statement of all claims which have been adjusted and allowed at the Treasury Department, in virtue of the law, entitled "An act providing for the settlement of the claims of persons, under particular circumstances, barred by the limitations heretofore established;" and, also, a statement of the balances standing in the books of the Treasury against the United States, which are barred by the statute of

limitations, together with his opinion whether the said statute can be modified or repealed, as to that or any other description of claims, without subjecting the Government to imposition.

Mr. CLAY gave notice that to-morrow he should ask leave to bring in a bill, supplementary to an act, entitled "An act for the punishment of certain crimes against the United States."

The bill, entitled "An act authorizing a loan of money, for a sum not exceeding the amount of the principal of the public debt reimbursable during the year one thousand eight hundred and ten," was read the second time, and referred to a select committee, to consist of five members, to consider and report thereon, and Messrs. SMITH of Maryland, CRAWFORD, LLOYD, FRANKLIN, and HILLHOUSE, were appointed the committee.

TERRITORY OF ORLEANS.

The Senate resumed, as in Committee of the Whole, the bill to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes; together with the amendments reported thereto by the select committee. On motion, by Mr. HILLHOUSE, to add, at the end of the bill, the following words:

"*Provided*, That the several States shall assent thereto, or an amendment to the Constitution of the United States shall authorize Congress to admit said Territory of Orleans into the Union, on the footing of the original States:"

It was determined in the negative—yeas 8, nays 20, as follows:

YEAS—Messrs. Champlin, German, Goodrich, Hillhouse, Horsey, Lloyd, Pickering, and Reed.

NAYS—Messrs. Anderson, Brent, Clay, Condit, Crawford, Franklin, Gaillard, Giles, Gilman, Gregg, Lambert, Leib, Mathewson, Meigs, Pope, Smith of Maryland, Sumter, Tait, Turner, and Whiteside.

And the report of the select committee having been agreed to, and the bill further amended, the President reported it to the House accordingly. On the question, Shall this bill be engrossed and read a third time as amended? it was determined in the affirmative—yeas 18, nays 9, as follows:

YEAS—Messrs. Anderson, Brent, Clay, Condit, Crawford, Franklin, Gaillard, Giles, Gregg, Lambert, Lloyd, Mathewson, Meigs, Smith of Maryland, Sumter, Tait, Turner, and Whiteside.

NAYS—Messrs. Champlin, German, Gilman, Goodrich, Hillhouse, Horsey, Leib, Pickering, and Reed.

TITLES OF NOBILITY, &c.

The Senate resumed the consideration of the motion made on the 18th of January, for an amendment to the Constitution of the United States, respecting titles of nobility, together with the amendments proposed thereto.

On motion, that the further consideration thereof be postponed to the first Monday in December next, it was determined in the negative—yeas 8, nays 20, as follows:

YEAS—Messrs. Condit, Gilman, Gregg, Leib, Mathewson, Meigs, Tait, and Whiteside.

NAYS—Messrs. Anderson, Brent, Champlin, Clay, Crawford, Franklin, Gaillard, German, Goodrich, Hillhouse, Horsey, Lambert, Lloyd, Pickering, Pope, Reed, Smith of Maryland, Smith of New York, Sumter, and Turner.

On motion, to amend the last report of the select committee, so as to read as follows:

"If any citizen of the United States shall accept, claim, receive, or retain, any title of nobility, or honor, or shall, without the consent of Congress, accept any present, pension, office, or emolument, of any kind whatever, from any Emperor, King, Prince, or foreign Power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them."

It was determined in the affirmative—yeas 26, nays 1, as follows:

YEAS—Messrs. Anderson, Brent, Champlin, Clay, Condit, Crawford, Franklin, Gaillard, German, Gilman, Goodrich, Hillhouse, Horsey, Lambert, Leib, Lloyd, Mathewson, Meigs, Pickering, Pope, Reed, Smith of Maryland, Sumter, Tait, Turner, and Whiteside.

NAY—Mr. Smith, of New York.

On motion, by Mr. POPE, to add to the resolution the following words: "And be subject to such other penalties and disabilities as may be provided by law;" it was determined in the negative—yeas 12, nays 14, as follows:

YEAS—Messrs. Anderson, Brent, Clay, Gregg, Leib, Lloyd, Pickering, Pope, Reed, Sumter, Tait, and Turner.

NAYS—Messrs. Champlin, Condit, Crawford, Franklin, Gaillard, German, Gilman, Goodrich, Hillhouse, Lambert, Mathewson, Smith of Maryland, Smith of New York, and Whiteside.

And the resolution having been further amended by inserting the words "and retain," after the words "accept," in the second instance, the President reported it to the House accordingly. On the question, Shall this resolution be engrossed and read a third time as amended? it was determined in the affirmative.

FRIDAY, April 27.

The Senate resumed, as in Committee of the Whole, the bill making further provision for the corps of engineers, together with the amendment reported thereto by the select committee. On motion, it was agreed that the further consideration thereof be postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the bill appropriating a sum of money for procuring munitions of war, and for other purposes.

On motion, it was referred to a select committee, to consider and report thereon; and Messrs. SMITH of Maryland, GILMAN, and CLAY, were appointed the committee.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill from the House of Representatives authorizing a loan, reported the same with the following proposed amendment:

Sec. 4. And be it further enacted, That the incorporation of the subscribers to the Bank of the United

States, made and established by the act, entitled "An act to incorporate the subscribers to the Bank of the United States," be, and the same is hereby, continued until the thirtieth day of June, one thousand eight hundred and twelve.

Mr. CLAY asked and obtained leave to bring in a bill, supplementary to an act, entitled "An act for the punishment of certain crimes against the United States;" which bill was read and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the bill for the preservation of peace, and maintenance of the authority of the United States in the ports, harbors, and waters, under their jurisdiction, together with the amendments reported thereto by the select committee; and the further consideration thereof was postponed until the first Monday in December next.

Mr. GILMAN, from the committee, also reported the resolution for an amendment to the Constitution, respecting titles of nobility, correctly engrossed; and the resolution was read the third time as amended.

On the question, Shall this resolution pass as amended? it was determined in the affirmative—yeas 19, nays 5, as follows:

YEAS—Messrs. Anderson, Champlin, Crawford, Franklin, Gaillard, Goodrich, Gregg, Hillhouse, Lambert, Leib, Lloyd, Mathewson, Meigs, Pickering, Reed, Smith of Maryland, Sumter, Tait, and Turner.

NAYS—Messrs. German, Gilman, Robinson, Smith of New York, and Whiteside.

So it was *Resolved*, That this resolution pass as amended.

On motion, by Mr. LLOYD, it was agreed, by unanimous consent, that a bill in addition to an act, entitled "An act concerning the Library for the use of both Houses of Congress," be now twice read.

On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

Mr. GILMAN, from the committee, reported the bill last mentioned, correctly engrossed, and the bill was read the third time by unanimous consent, and passed.

The bill entitled "An act providing for the sale of certain lands in the Indiana Territory, and for other purposes," was read the third time as amended.

Resolved, That this bill pass with amendments.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of Jared Shattuck," together with the amendment proposed thereto; and the further consideration thereof was postponed to the first Monday in December next.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of Margaret Lapsley, Grove Pomeroy, Arthur St. Clair, David Blackwell, Lucy Dickson, and John Murray."

On motion, it was agreed that the further consideration thereof be the order of the day for tomorrow.

APRIL, 1810.

Non-Intercourse.—Territory of Orleans.

SENATE.

NON-INTERCOURSE.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," together with the amendments reported thereto by the select committee.

On the question to agree to so much of the report of the select committee as goes to strike out the 4th section of the original bill, and insert in lieu thereof a substitute, Mr. POPE called for a division of the question, and it was taken on striking out, and passed in the affirmative—yeas 18, nays 9, as follows:

YEAS—Messrs. Anderson, Champlin, Crawford, Gaillard, German, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Mathewson, Pickering, Reed, Smith of Maryland, Smith of New York, Sumter, Tait, and Turner.

NAYS—Messrs. Clay, Condit, Franklin, Gregg, Lambert, Leib, Pope, Robinson, and Whiteside.

And, on the question to agree to insert the following as a substitute:

"SEC. 4. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized, when he may deem it expedient, to employ the public armed vessels in protecting the commerce of the United States, and to issue instructions which shall be conformable to the laws and usages of nations, for the government of the ships which may be employed in that service."

It was determined in the affirmative—yeas 20, nays 8, as follows:

YEAS—Messrs. Anderson, Bayard, Champlin, Clay, Gaillard, German, Gilman, Goodrich, Hillhouse, Horsey, Leib, Mathewson, Meigs, Pickering, Pope, Reed, Robinson, Smith of Maryland, Tait, and Whiteside.

NAYS—Messrs. Crawford, Franklin, Gregg, Lambert, Lloyd, Smith of New York, Sumter, and Turner.

On motion, by Mr. HILLHOUSE, to strike out the 5th section of the original bill, as amended, it was determined in the negative—yeas 7, nays 20, as follows:

YEAS—Messrs. Bayard, Goodrich, Hillhouse, Horsey, Lambert, Lloyd, and Pickering.

NAYS—Messrs. Anderson, Brent, Champlin, Clay, Condit, Crawford, Franklin, Gaillard, German, Gilman, Leib, Mathewson, Meigs, Pope, Reed, Smith of Maryland, Smith of New York, Sumter, Tait, and Whiteside.

On motion, by Mr. WHITESIDE, to add to the bill an additional section, in the following words:

"*And be it further enacted*, That, from and after the passage of this act, an addition of — per centum shall be made to the duties now imposed by law on all goods, wares, and merchandise, which may be imported into the United States, or any Territory thereof; which additional duties shall be levied and collected in the same manner, and under the same regulations and allowance as to drawbacks, mode of security, and time of payment, respectively, as are already prescribed by law in relation to the duties now in force on the importation of goods, wares, and merchandise."

It was determined in the negative—yeas 8, nays 19, as follows:

YEAS—Messrs. Anderson, Clay, Condit, Franklin, Lambert, Leib, Meigs, Pope, and Whiteside.

NAYS—Messrs. Bayard, Brent, Champlin, Crawford, Gaillard, German, Gilman, Goodrich, Hillhouse, Horsey, Lloyd, Mathewson, Pickering, Reed, Smith of Maryland, Smith of New York, Sumter, Tait, and Turner.

And having agreed to several other amendments, reported by the select committee, and further amended the bill, the President reported it to the House accordingly. On the question, Shall this bill be read the third time as amended? it was determined in the affirmative—yeas 21, nays 7, as follows:

YEAS—Messrs. Anderson, Bayard, Brent, Champlin, Clay, Condit, Franklin, Gaillard, German, Gilman, Lambert, Leib, Mathewson, Meigs, Pope, Reed, Smith of Maryland, Smith of New York, Sumter, Tait, and Whiteside.

NAYS—Messrs. Crawford, Goodrich, Hillhouse, Horsey, Lloyd, Pickering, and Turner.

TERRITORY OF ORLEANS.

Mr. GILMAN, from the committee, reported the bill to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes, correctly engrossed; and the bill was read the third time; and, on motion, by Mr. MEIGS, it was agreed, by unanimous consent, to amend the bill, by adding, at the end of the fourth section, the following words: "And that no tax shall be imposed on land, the property of the United States."

On the question, Shall this bill pass as amended? it was determined in the affirmative—yeas 15, nays 8, as follows:

YEAS—Messrs. Anderson, Condit, Crawford, Franklin, Gaillard, Gregg, Lambert, Leib, Mathewson, Meigs, Smith of Maryland, Smith of New York, Tait, Turner, and Whiteside.

NAYS—Messrs. Champlin, German, Gilman, Goodrich, Hillhouse, Lloyd, Pickering, and Reed.

So it was *Resolved*, That this bill pass, and that the title thereof be "An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes."

SATURDAY, April 28.

On request of Mr. MEIGS, leave was obtained, by unanimous consent, to bring in a bill providing for the final adjustment of claims to lands in the Territories of Orleans and Louisiana; and that the bill be now twice read.

On the question, Shall this bill be engrossed and read the third time? it was determined in the affirmative.

Mr. GILMAN, from the committee, reported the amendments to the bill, entitled "An act concerning the commercial intercourse between the

SENATE.

Barred Claims.

APRIL, 1810.

United States and Great Britain and France, and their dependencies, and for other purposes," correctly engrossed; and the bill was read the third time as amended.

Resolved, That this bill pass with amendments.

Mr. SMITH, of Maryland, from the committee to whom was referred the bill appropriating a sum of money for procuring munitions of war, and for other purposes, reported it with amendments; which were read, and considered as in Committee of the Whole, and agreed to; and the President reported the bill to the House accordingly.

On the question, Shall this bill be engrossed and read the third time as amended? it was determined in the affirmative.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act confirming the decisions of the commissioners in favor of the claimants of land in the district of Kaskaskia;" in which bill they desire the concurrence of the Senate.

The bill last brought up for concurrence was twice read by unanimous consent, and referred to a select committee, to consider and report thereon; and Messrs. MEIGS, GREGG, and ANDERSON, were appointed the committee.

The bill supplemental to an act, entitled, "An act for the punishment of certain crimes against the United States," was read the second time, and referred to a select committee, to consider and report thereon; and Messrs. POPE, BAYARD, and LEIB, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act authorizing a detachment from the militia of the United States."

On motion, by Mr. BAYARD, the further consideration thereof was postponed until the first Monday in December next.

MONDAY, April 30.

The Senate resumed, as in Committee of the Whole, the bill making further provision for the corps of engineers, together with the amendment reported thereto by the select committee. And on motion, the further consideration thereof was postponed until the first Monday in December next.

Mr. GILMAN, from the committee, reported the bill providing for the final adjustment of claims to land in the Territories of Orleans and Louisiana, correctly engrossed: and the bill was read the third time; and the blanks having been filled as follows: 1st, with the word "fifty;" 2d, with the word "fifty;" 3d, with the words "five hundred;" 4th, with the words "six hundred;" 5th, with the word "fifty;" 6th, with the word "four:"

Resolved, That this bill pass, and that the title thereof be "An act providing for the final adjustment of claims to lands in the Territories of Orleans and Louisiana."

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of Margaret Lapsley, Grove Pomeroy, Arthur St. Clair, David Blackwell, Lucy Dixon, and John

Murray." On the question, shall this bill be read a third time? it was determined in the affirmative—yeas 15, nays 13, as follows:

YEAS—Messrs. Anderson, Bayard, Brent, Champlin, Giles, Gilman, Goodrich, Horsey, Lloyd, Meigs, Pickering, Pope, Reed, Smith of Maryland, and Sumter.

NAYS—Messrs. Condit, Crawford, Franklin, Gaillard, Gregg, Hillhouse, Lambert, Leib, Matthewson, Robinson, Smith of New York, Tait, and Turner.

Mr. TURNER, from the committee to whom was referred the bill, entitled "An act for the relief of John Minor, administrator of Reuben Minor," reported it without amendment.

Ordered, That this bill pass to a third reading.

Mr. GILMAN, from the committee, reported the bill appropriating a sum of money for procuring munitions of war, and for other purposes, correctly engrossed; and the bill was read the third time as amended; and the blanks having been filled as follows: 1st, with the words "one hundred thousand;" 2d, with the words "sixty thousand;"

Resolved, That this bill pass, and that the title thereof be "An act appropriating a sum of money for procuring clothing for the Army and Marine Corps, and for other purposes."

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act authorizing a loan of money for a sum not exceeding the amount of the principal of the public debt reimbursable during the year 1810," together with the amendments reported thereto by the select committee; and having disagreed to the amendments,

Ordered, That this bill pass to a third reading.

Mr. MEIGS, from the committee to whom was referred the bill, entitled "An act confirming the decisions of the commissioners in favor of claimants of land in the district of Kaskaskia," reported it without amendment.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of Amey Dardin, widow and representative of David Dardin, deceased."

On the question, Shall this bill be read a third time? it was determined in the negative.

Mr. POPE, from the committee to whom was referred the bill supplemental to an act, entitled "An act for the punishment of certain crimes against the United States," reported it without amendment.

BARRED CLAIMS.

The PRESIDENT communicated the report of the Secretary for the Department of the Treasury, made in pursuance of the resolution of the Senate of the 26th instant, on the subject of claims barred by the statute of limitations; and the report was read, as follows:

TREASURY DEPARTMENT, April 28, 1810.

SIR: I have the honor to transmit a report prepared in obedience to the resolution of the Senate, of the twenty-sixth instant. I have the honor to be, &c.

ALBERT GALLATIN

To the honorable the President of the Senate:

The Secretary of the Treasury, in obedience to the resolution of the Senate, of the 26th instant, respectfully reports—

MAY, 1810.

Proceedings.

SENATE.

That it appears, by the letter from the Register of the Treasury, herewith transmitted, that the statement of all the claims adjusted and allowed, by virtue of the act, entitled "An act providing for the settlement of the claims of persons under particular circumstances, barred by the limitations heretofore established," cannot be completed before the day contemplated for the adjournment of Congress, but will be prepared so as to be laid before the Senate at the commencement of their next session.

That the statement (A) herewith transmitted, exhibits the amount of the balances standing on the books of the Treasury against the United States, which are barred by the statutes of limitation, and arranged under the following heads, viz :

| | |
|---|-------------|
| Loan Office certificates - - - - | \$90,811 36 |
| Indents for interest on the public debt - - | 64,590 98 |
| Final settlement certificates - - - | 23,873 24 |
| Commissioners' certificates - - - | 4,304 83 |
| Army commissioners' do. - - - | 46,468 97 |
| Credits given in lieu of army commissioners' certificates cancelled - - - | 28,674 30 |
| Credits for pay of the army, for which no certificates were ever issued - - - | 17,132 11 |
| Invalid pensions - - - - | 16,635 46 |
| Amounting together to - - - | 292,491 25 |

That so far as relates to the said balances, which result altogether from accounts actually settled at the Treasury, the statute of limitation can be repealed without subjecting the Government to imposition; but that considering the length of time which has elapsed since the claims have been barred, and the little value on that account affixed to them, the repeal of the statute, unless properly guarded in that respect, may not generally benefit the rightful claimants.

And that with the exception of those balances, it is not believed that it would be safe to repeal the statute of limitation in relation to any other general description of claims; although there may be special cases in which, notwithstanding the lapse of time, the proper proofs and checks may still exist, so as to prevent any imposition on the public.

All which is respectfully submitted.

ALBERT GALLATIN.

TUESDAY, May 1.

The Senate resumed, as in Committee of the Whole, the bill supplemental to an act, entitled "An act for the punishment of certain crimes against the United States;" and, on motion, the further consideration thereof was postponed until the first Monday in December next.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act confirming the decisions of the commissioners in favor of the claimants of lands in the district of Kaskaskia;" and on motion, the bill was read the third time, by unanimous consent, and passed.

The bill, entitled "An act authorizing a loan of money for a sum not exceeding the amount of the principal of the public debt reimbursable during the year 1810," was read the third time and passed.

The bill, entitled "An act for the relief of John Minor, administrator of Reuben Minor," was read the third time.

The bill, entitled "An act for the relief of Margaret Lapsley, Grove Pomeroy, Arthur St. Clair, David Blackwell, Lucy Dixon, and John Murray," was read the third time.

On motion, by Mr. CRAWFORD, that it be re-committed to a select committee, further to consider and report thereon, it was determined in the affirmative—yeas 15, nays 14, as follows:

YEAS—Messrs. Condit, Crawford, Franklin, Gaillard, Gregg, Hillhouse, Lambert, Leib, Mathewson, Pickering, Robinson, Smith of New York, Tait, Turner, and Whiteside.

NAYS—Messrs. Anderson, Bayard, Brent, Champ-lin, Giles, Gilman, Goodrich, Horsey, Lloyd, Meigs, Pope, Reed, Smith, of Maryland, and Sumter.

Ordered, That Messrs. CRAWFORD, HILLHOUSE, and POPE, be the committee.

The Senate adjourned to five o'clock this evening.

Tuesday Evening, five o'clock.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act further to alter and amend 'An act providing for the third census or enumeration of the inhabitants of the United States,'" in which bill they desire the concurrence of the Senate. They concur in some and disagree to other amendments of the Senate to the bill, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" and they insist on their disagreement, and ask a conference on the subject-matter thereof, and have appointed managers on their part.

The Senate proceeded to consider the amendments disagreed to by the House of Representatives to the bill, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

On motion, by Mr. CRAWFORD, that the Senate recede from their fourth amendment to the said bill, it was determined in the negative—yeas 11, nays 14, as follows:

YEAS—Messrs. Condit, Crawford, Franklin, Gregg, Lambert, Lloyd, Pope, Reed, Smith of New York, Tait, and Turner.

NAYS—Messrs. Anderson, Gaillard, Giles, Gilman, Goodrich, Hillhouse, Horsey, Leib, Mathewson, Meigs, Pickering, Robinson, Smith of Maryland, and Whiteside.

Resolved, That the Senate insist on their amendments disagreed to by the House of Representatives to the bill last mentioned; and that they agree to the conference proposed by the House of Representatives on the subject; and that Messrs. CRAWFORD, SMITH of Maryland, and ANDERSON, be managers at the same on the part of the Senate.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act to erect a light-house at the entrance of Scituate harbor; a stone column on a spit of sand at the entrance into Boston har-

SENATE.

Adjournment.

MAY, 1810.

bor; and a beacon on Beach Point, near Plymouth harbor, in the State of Massachusetts; a light at the entrance of Bayou St. John into lake Pontchartrain; and two lights on lake Erie;" with amendments, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives to the bill last mentioned, and concurred therein.

The bill, entitled "An act further to amend 'An act providing for the third census or enumeration of the inhabitants of the United States,'" was three times read by unanimous consent, and passed.

Mr. HILLHOUSE, from the committee to whom was referred the bill, entitled "An act for the relief of Margaret Lapsley, Grove Pomeroy, Arthur St. Clair, David Blackwell, Lucy Dixon, and John Murray," reported it with amendments, which were read and considered as in Committee of the Whole; and, having been agreed to, the President reported the bill to the House accordingly, and the bill was read the third time as amended, by unanimous consent, and passed with amendments.

Mr. HILLHOUSE, from the same committee, further reported as follows:

Resolved, That the Secretary for the Department of the Treasury report to the Senate, at their next meeting, the necessary provisions for guarding the Treasury of the United States from fraud and imposition on the removal of the statute of limitations, in relation to the following claims mentioned in his report of the 28th of April, 1810, viz:

1. Loan office certificates.
2. Indents for interest on the public debt.
3. Final settlement certificates.
4. Commissioners' certificates.
5. Army certificates.
6. Credits given in lieu of Army certificates cancelled.
7. Credits for the pay of the Army, for which no certificates were issued.
8. Invalid pensions.

Also, how far the statute of limitations may with safety be removed, as to claims for personal services rendered in the Army of the United States, during the Revolutionary war, and the guards and checks necessary and proper to be adopted.

And the report was considered and agreed to.

Mr. CRAWFORD, from the managers at the conference on the disagreeing votes of the two Houses

on the bill, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," made report. Whereupon,

Resolved, That the Senate recede from that part of their fourth amendment which consists of the fourth section of the bill as amended, and that they adhere to all their other amendments to the said bill.

Mr. POPE, from the committee to whom was referred the bill entitled "An act for the relief of William W. Weymouth and Joseph P. Weeks," reported it without amendment; and the bill was read the third time by unanimous consent, and passed.

The PRESIDENT communicated a letter from the Surveyor of the Public Buildings on the appropriation necessary for the completion of the north wing of the Capitol, which was read.

Messrs. CRAWFORD and LLOYD were appointed a committee on the part of the Senate, with such as the House of Representatives may join, to wait on the President of the United States and notify him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn.

Ordered, That the further consideration of the bill, entitled "An act for the relief of John Minor, administrator of Reuben Minor," be postponed until the first Monday in December next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making further appropriations for completing the Capitol, and for other purposes;" also, a bill, entitled "An act for the relief of P. C. L'Enfant;" in which bills they desire the concurrence of the Senate.

The bill, entitled "An act for the relief of P. C. L'Enfant," was three times read by unanimous consent, and passed.

Mr. CRAWFORD, from the joint committee, reported that they had waited on the President of the United States, who informed them that he had no further communication to make to the two Houses of Congress.

Ordered, That the Secretary notify the House of Representatives that the Senate, having finished the business before them, are about to adjourn.

The Secretary having performed that duty, the President adjourned the Senate without day.

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE SECOND SESSION OF THE ELEVENTH CONGRESS, BEGUN AT THE CITY OF
WASHINGTON, NOVEMBER 27, 1809.

MONDAY, November 27, 1809.

This being the day appointed by law for the meeting of Congress, the following members of the House of Representatives appeared, and took their seats, to wit:

From New Hampshire—Daniel Blaisdell, and Nathaniel A. Haven.

From Massachusetts—Ezekiel Bacon, Richard Cutts, William Ely, Barzillai Gannett, Josiah Quincy, Sam'l Taggart, Charles Turner, jr., Jabez Upham, Joseph B. Varnum, (the Speaker,) and Laban Wheaton.

From Vermont—William Chamberlin, Martin Chittenden, Jonathan H. Hubbard, and Samuel Shaw.

From Rhode Island—Richard Jackson.

From Connecticut—Epaphroditus Champion, Sam'l W. Dana, John Davenport, Jonathan O. Moseley, Timothy Pitkin, jun., Lewis B. Sturges, and Benjamin Tallmadge.

From New York—James Emott, Jonathan Fisk, Thomas R. Gold, Robert Le Roy Livingston, Peter B. Porter, Erastus Root, Ebenezer Sage, Thomas Sammons, John Thompson, Killian K. Van Rensselaer.

From New Jersey—Adam Boyd, James Cox, William Helms, Jacob Hufty, Thomas Newbold, and Henry Southard.

From Pennsylvania—William Anderson, David Bard, Robert Brown, William Crawford, Aaron Lyle, William Milnor, John Porter, John Rea, Matthias Richards, John Smilie, George Smith, Samuel Smith, and Robert Whitehill.

From Maryland—Charles Goldsborough, John Montgomery, Nicholas R. Moore, Roger Nelson, and Archibald Van Horn.

From Virginia—Burwell Bassett, James Breckenridge, John Clopton, John Dawson, John W. Eppes, Thomas Gholson, jun., Peterson Goodwyn, John G. Jackson, Joseph Lewis, jun., John Love, Thomas Newton, John T. Roane, John Smith, and James Stephenson.

From North Carolina—Willis Alston, jun., James Cochran, William Kennedy, Nathaniel Macon, Archibald McBryde, Joseph Pearson, Lemuel Sawyer, and Richard Stanford.

From South Carolina—Lemuel J. Alston, William Butler, Joseph Calhoun, Robert Marion, Thomas Moore, and John Taylor.

From Georgia—Howell Cobb, and George M. Troup.

From Ohio—Jeremiah Morrow.

From Kentucky—Joseph Desha, Benjamin Howard, Richard M. Johnson, and Samuel McKee.

From Tennessee—Pleasant M. Miller, John Rhea, and Robert Weakley.

From Mississippi Territory—George Poindexter.

From Indiana Territory—Jonathan Jennings.

From Orleans Territory—Julien Poydras.

ADAM SEYBERT, returned to serve as a member of this House, for the State of Pennsylvania, in the room of Benjamin Say, resigned, appeared, produced his credentials, was qualified, and took his seat.

JONATHAN JENNINGS, returned to serve as a Delegate from the Territory of Indiana, appeared, produced his credentials, was qualified, and took his seat.

A quorum, consisting of a majority of the whole number, being present, Mr. Goodwyn and Mr. Roor were appointed a committee on the part of the House, jointly with such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communications he may be pleased to make to them.

On motion of Mr. NELSON, the Clerk was directed to procure newspapers from any number of offices that the members shall elect, provided the expense do not exceed the amount of three daily newspapers.

On motion of Mr. NELSON, it was

Resolved, That, unless otherwise ordered, the daily hour to which this House shall stand adjourned, during the present session, be eleven o'clock in the forenoon.

TUESDAY, November 28.

Several other members, to wit: from New Hampshire, JOHN C. CHAMBERLAIN and JAMES WILSON; from Rhode Island, ELISHA R. POTTER; from Pennsylvania, WILLIAM FINDLEY and DANIEL HEISTER; from Virginia, MATTHEW CLAY

and JACOB SWOOPÉ; and from North Carolina, JOHN STANLEY; appeared, and took their seats in the House.

A message from the Senate informed the House that a quorum of the Senate is assembled, and ready to proceed to business. They have appointed a committee on their part, jointly with the committee appointed on the part of this House, to inform the President that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make them.

The SPEAKER laid before the House a certificate of the election of ADAM SEYBERT, to serve as a member for the State of Pennsylvania, in the room of Benjamin Say, resigned; which was read, and, together with the certificate of the election of JONATHAN JENNINGS, the delegate from the Territory of Indiana, referred to the Committee of Elections.

The SPEAKER also laid before the House a memorial of the Legislative Council and House of Representatives of the Indiana Territory, stating that, by certain acts of Congress, the number of members composing the Legislature of that Territory was so deranged as to render it necessary to make a new apportionment of members of the said Legislative Council and House of Representatives, which has been done; and praying the sanction of Congress to the apportionment aforesaid.—Referred to Mr. POINDEXTER, Mr. COCHRAN, Mr. BRECKENRIDGE, Mr. WITHERSPOON, and Mr. JENNINGS, with leave to report by bill, or otherwise.

Mr. TAYLOR presented a petition of Thomas Galphin, of the State of South Carolina, only surviving partner of the late firm of Galphin, Holmes, and Co., traders with the Creek Indians, and executor of the will of his father, praying that an act may be passed to compel certain persons; resident in the Creek nation of Indians, to pay the amount respectively owing by them to the estate of the father of the petitioner and to the firm aforesaid.—Referred to Mr. TAYLOR, Mr. DANA, Mr. SAMMONS, Mr. CRAWFORD, and Mr. CHAMBERLIN of Vermont, to examine and report their opinion thereupon to the House.

Mr. GOODWYN from the joint committee appointed to wait on the President of the United States, reported that the committee had performed the service assigned to them, and that the President signified that he would make a communication, in writing, to the two Houses of Congress, to-morrow at twelve o'clock.

STANDING COMMITTEES.

A motion was made, by Mr. SMILIE, that the House do proceed to the appointment of the standing committees, pursuant to the rules and orders of the House: Whereupon, the following standing committees were appointed viz:

Committee of Elections—Mr. Findley, Mr. Clay, Mr. Sturges, Mr. Troup, Mr. Taylor, Mr. Van Rensselaer, and Mr. Gannett.

Committee of Claims—Mr. Johnson, Mr. Pitkin,

Mr. Butler, Mr. R. Brown, Mr. Stanley, Mr. Gholson, and Mr. P. B. Porter.

Committee of Commerce and Manufactures—Mr. Newton, Mr. Dana, Mr. Marion, Mr. Cutts, Mr. N. R. Moore, Mr. Sage, and Mr. Seybert.

Committee of Ways and Means—Mr. Eppes, Mr. W. Alston, Mr. Tallmadge, Mr. Montgomery, Mr. Bacon, Mr. Smilie, and Mr. Root.

Committee on the Public Lands—Mr. Morrow, Mr. Goodwyn, Mr. Ely, Mr. Boyd, Mr. Howard, Mr. Gold, and Mr. Cobb.

Committee of Revision and Unfinished Business—Mr. Southard, Mr. Shaw, and Mr. R. Jackson.

Committee for the District of Columbia—Mr. Love, Mr. Van Horn, Mr. L. J. Alston, Mr. Newbold, Mr. S. Smith, Mr. Taggart, and Mr. Haven.

Committee on Post Offices and Post Roads—Mr. Rhea of Tennessee, Mr. Helms, Mr. Thompson, Mr. Desha, Mr. Stanford, Mr. Calhoun, Mr. Troup, Mr. Morrow, Mr. Davenport, Mr. Chittenden, Mr. Goldsborough, Mr. Whitehill, Mr. Potter, Mr. J. Smith, Mr. Upham, and Mr. Wilson.

Committee of Accounts—Mr. Milnor, Mr. Kennedy, and Mr. Turner.

WEDNESDAY, November 29.

Several other members, to wit: from New York, JOHN NICHOLSON; from Maryland, JOHN BROWN; and from Virginia, WALTER JONES; appeared, and took their seats in the House.

A Message, in writing, was received from the PRESIDENT OF THE UNITED STATES. [For this Message see Senate proceedings of this date, *ante* page 478.]

The said Message, together with the documents accompanying the same, was committed to a Committee of the Whole on the state of the Union; and five thousand copies thereof ordered to be printed for the use of the members.

THURSDAY, November 30.

Several other members, to wit: from New Hampshire, WILLIAM HALE; from Massachusetts, GIDEON GARDNER and EZEKIEL WHITMAN; and from New York, VINCENT MATTHEWS; appeared, and took their seats in the House.

A message from the Senate informed the House that the Senate have resolved that two Chaplains, of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly.

On motion of Mr. Root,

Resolved, That the Committee on Post Offices and Post Roads be instructed to report a bill authorizing members of the Senate and House of Representatives to frank the President's Message and accompanying documents, transmitted to both Houses at the opening of the present session, notwithstanding the same may weigh more than two ounces avoirdupois: *Provided*, That each member so franking shall endorse on the wrapper, in substance, that the enclosure contains the said Message and documents, and them only, and subscribe his name to such endorsement.

The SPEAKER, laid before the House the following letter, which was read.

DECEMBER, 1809.

President's Message—Navigation Laws.

H. OF R.

To the Speaker of the House of Representatives :

SIR: An occurrence having recently taken place between a member of the House of Representatives and myself, produced by circumstances not at all connected with his official duties or opinions, which from the time and place may be considered disrespectful to the House of Representatives, I take the liberty of tendering through you my most respectful declarations, that I am the last who would wilfully manifest a deficiency of that reverence which is due to the Representatives of my country, or that sacred regard which is also due to their privileges.

To yourself, sir, personally, I tender the assurances of my very great respect. I. A. COLES.

NOVEMBER 29, 1809.

[No order having been taken on it, the letter lies on the table of course.]

PRESIDENT'S MESSAGE.

On motion of Mr. DAWSON, the House resolved itself into a Committee of the Whole on the state of the Union. The President's Message having been read,

Mr. SMILIE said that the common mode of proceeding, when in Committee of the Whole on the President's Message, was to refer the several subjects embraced in it to different committees. The Message was not yet printed and laid on the table. He had seen inconveniences arising from too hasty a reference of these subjects on former occasions; he remembered last winter, unfortunately, the subject of our foreign relations had been divided and committed to two separate committees, which had interfered with each other. Perhaps, if the House proceeded too hastily on this occasion, similar inconveniences might again occur. In order to give further time for consideration, he moved that the Committee now rise.

This motion was agreed to without debate and without a division.

FRIDAY, December 1.

Two other members, to wit: from Virginia, EDWIN GRAY; and from North Carolina, MESHACK FRANKLIN; appeared, and took their seats in the House.

The House proceeded, by ballot, to the appointment of a Chaplain to Congress on their part; after several ballotings a majority of the votes were found in favor of JESSE LEE, who was therefore declared duly elected.

On motion of Mr. SMILIE, a committee was appointed to prepare and report standing rules and orders for the government of the House. The committee consists of Messrs. MACON, SMILIE, RHEA of Tennessee, SOUTHWARD, and SHAW.

Mr. W. ALSTON offered the following resolution, which being varied on the suggestion of Mr. POINDEXTER, so as to refer the subject to the Committee of Public Lands, was agreed to:

Resolved, That a committee be appointed to inquire into the propriety of confirming the right of the city of New Orleans to the Common of said city, including the ground occupied by the fortifications of the same, and also of vesting in the said city or in the Territory of Orleans the public and vacant lots of ground within

the city aforesaid, on such conditions as may tend to the improvement and health of the city.

Mr. MORROW presented a petition of sundry inhabitants of the State of Ohio, stating that, in consequence of the restrictions under which the commerce of the United States at present labors, they are unable to complete their payments for lands purchased from the United States; and praying such revision and amendment of the laws providing for the sale of the public lands as is therein expressed. Also, expressing their "unequivocal and entire approbation of the administration of the General Government."—Referred to the Committee on the Public Lands.

A motion was made by Mr. MONTGOMERY, that the Committee of the Whole on the state of the Union be discharged from the farther consideration of the Message from the President of the United States, and the accompanying documents: and the question being taken thereupon, it was determined in the negative.

NAVIGATION LAWS.

Mr. MACON said he wished early to call the attention of the House to two motions, the object of which he deemed to be very important. The first of them had been formerly submitted to the House by a gentleman from Georgia (Mr. EARLY,) but never acted on, and afterwards by a gentleman from South Carolina (Mr. D. R. WILLIAMS;) the other had been presented by Mr. MACON himself at the last session, but at so late a period that it had not been acted on. It appeared to Mr. MACON that these motions, combined with one submitted at different times by a gentleman from Connecticut, (Mr. DANA,) would form something like a system. The object of the first motion he was about to submit, was to prohibit any foreign vessel from coming from any port or place to which the vessels of the United States could not go. Gentlemen would at once observe that there were many places whence vessels came to this country, to which we cannot go, and would perceive the extent of the motion. The other motion related to sea-letter vessels only. Mr. MACON said he wished to put them out of the nation, and to have no vessels belonging to the United States which were not perfectly American. He would have our vessels wholly American, or they should not at all partake of the character of American vessels.

After declaring that he considered his motions as calculated for permanent regulations, Mr. MACON submitted the following resolutions:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of prohibiting the entry of any vessel into the United States from any port or place to which a vessel of the United States is not admitted by permanent regulation of the Government owning such port or place by treaty.

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of authorizing the registering anew of vessels built in the United States, which are owned in whole by citizens of the United States, any disability incurred

by such vessel to the contrary notwithstanding; and also into the expediency of forbidding by law sea-letters or any custom house documents being granted to vessels not registered or licensed according to law, or not owned by citizens of the United States, within a limited time after the passing of such a law.

Mr. NEWTON having seconded these motions, Mr. MACON moved to refer them to the Committee of Commerce and Manufactures.

Mr. DANA observed that these resolutions had in view merely an investigation by the Committee of Commerce and Manufactures into the subject of them. On such a question it was but necessary to ask whether the subject be of itself interesting, and whether or not the proposition bears on the face of it so much of probability and propriety that there could be no objection to it on the score of its being utterly inadmissible. Unless, therefore, the propositions were utterly inadmissible, if they related to a subject interesting to the nation in time of peace as well as of war, if they had a connexion with one great branch of national policy, there could be no objection to have them investigated by a committee. Without expressing any opinion on the first proposition, which embraced a variety of important considerations, Mr. D. said that the motions were recommended to the House by their being founded on permanent principles, to which the nation may adhere in every alternative; and in addition to the attention due to them because they were of a permanent character and not merely temporary expedients, they might contribute to some of those measures of temporary policy deemed proper, and without a possibility of thwarting, might perhaps aid any project the Government might adopt. As to the second resolution, that he considered important in another point of view, as tending to encourage American manufactures. If there be any manufacture which requires great precision of science and experimental skill, any one which embraces more of the profound and elevated principles of science, and requires more dexterity in practical execution than any other, it is the constructing of ships. With these ideas, which Mr. DANA said were not applicable to the merits of the proposition, but to the question of reference, he should vote for referring them. He was extremely glad the motions had been brought forward, and particularly that they had been introduced by a gentleman so well qualified to sustain them, by his character and talents.

The motion for referring Mr. MACON's propositions was carried.

AMERICAN SEAMEN.

Mr. DANA said it would be recollected that at the last session he had proposed a resolution for the benefit of the seamen of the United States, which had been referred to a select committee, and a bill to that effect had been reported. But as the time to which Congress had thought proper to limit its session did not admit of a full discussion he had thought proper to press its consideration. It appeared to him that the proposition had some connexion with the subject of the

motions of the gentleman from North Carolina (Mr. MACON,) and also with the subject, recommended by the President, of guarding against abuses of the American flag by collusive prostitutions of it. If a vessel of the United States was to be considered as a "floating colony," he did not wish it to be a colony of foreigners.

Mr. DANA submitted the following resolution:

Resolved, That for the benefit of seamen of the United States it is proper to make provision that registered ships or vessels, after a time to be limited by law, shall not continue to enjoy the benefits or privileges appertaining to ships or vessels of the United States, unless a certain proportion of the mariners on board the same shall be citizens of the United States.

This motion was also referred to the Committee of Commerce and Manufactures, who were instructed to report by bill or bills or otherwise on all three propositions.

PRESIDENT'S MESSAGE.

On motion, by Mr. EPPES, the House resolved itself into a Committee of the Whole on the state of the Union.

Mr. EPPES offered eight resolutions, which being agreed to by the committee were reported to the House, and agreed to, as follows:

1. *Resolved*, That so much of the Message of the President of the United States as respects the relations of the United States with foreign nations, be referred to a select committee.

[The following gentlemen compose this committee: Messrs. MACON, FINDLEY, J. G. JACKSON, MOSELY, TAYLOR, WM. CHAMBERLIN, FISK, MCKEE and GANNETT.]

2. *Resolved*, That so much of the Message of the President of the United States as relates to penalties involuntarily incurred by the infraction of the law prohibiting commercial intercourse with Great Britain and France and their dependencies, and for other purposes, be referred to the Committee of Commerce and Manufactures.

3. *Resolved*, That so much of the Message of the President of the United States as relates to abuses of the flag of the United States, by collusive prostitutions thereof, be referred to the Committee of Commerce and Manufactures.

4. *Resolved*, That so much of the Message of the President of the United States as relates to the naval establishment of the United States, be referred to a select committee.

[The following gentlemen compose this committee: Messrs. BASSETT, QUINCY, JOHN BROWN, SAWYER, MILNOR, CRIST, and J. C. CHAMBERLAIN.]

5. *Resolved*, That so much of the Message of the President of the United States as relates to the Military Establishment of the United States, be referred to a select committee.

[The following gentlemen compose this committee: Messrs. NELSON, DAWSON, T. MOORE, CHAMPION, COX, MILLER, and WHEATON.]

6. *Resolved*, That so much of the Message of the President of the United States as relates to the organization of the militia of the United States, be referred to a select committee.

DECEMBER, 1809.

Mississippi Territory—Committee on Manufactures.

H. OF R.

[The following gentlemen compose this committee: Messrs. TALLMADGE, CLAY, BUTLER, REA of Pennsylvania, WEAKLEY, HALE, TURNER.]

7. *Resolved*, That so much of the Message of the President of the United States as relates to the finances of the United States, be referred to the Committee of Ways and Means.

8. *Resolved*, That so much of the Message of the President of the United States as relates to the fortifications of the ports and harbors of the United States, be referred to a select committee.

[This committee is composed of the following gentlemen: Messrs. CLOPTON, JOHN PORTER, EMOTT, McKIM, GARDNER, McBRYDE, and WITHERSPOON.]

MISSISSIPPI TERRITORY.

Mr. POINDEXTER offered the following resolution:

Resolved That a committee be appointed to inquire into the expediency of allowing the citizens of the county of Madison, in the Mississippi Territory, a Representative in the Assembly of that Territory.

Mr. TROUP moved to amend the motion by adding the following, in substance, which he afterwards consented to make the subject of a separate motion, as follows:

Resolved, That the Secretary of the Treasury be directed to lay before the House of Representatives any information he may have touching any settlement contrary to law on the public lands of the United States, in the county of Madison, in the Mississippi Territory; by whom, to what extent, and what measures have been taken for their removal.

Both these resolutions were agreed to.

Mr. POINDEXTER took occasion to observe, that the citizens of Madison county were not Yazoo settlers, as the gentleman from Georgia seemed to suppose, but persons who had become purchasers of public land, some of which had been sold at twenty and thirty dollars the acre, and a considerable sum of the purchase money of which had lately been paid into the Treasury.

MONDAY, December 4,

Several other members to wit: from Maryland, ALEXANDER McKIM, from South Carolina, THOMAS KENAN, from South Carolina, ROBERT WITHERSPOON, from Kentucky, HENRY CRIST; and from Georgia, WILLIAM W. BIBB; appeared, and took their seats in the House.

Mr. POINDEXTER presented a petition of Josiah H. Webb, praying such annual allowance as may be deemed adequate for his support, in consequence of a wound received from an unknown hand, while employed as a post rider in conveying the United States' mail between Athens and New Orleans, which has rendered him incapable of labor.—Referred to Mr. POINDEXTER, Mr. NICHOLSON, Mr. G. SMITH, Mr. SWOOP, and Mr. HUBBARD, with instruction to examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. RHEA, of Tennessee, from the Committee on the Post Office and Post Roads, presented a

bill to authorize the transportation of certain documents free of postage; which was read twice and ordered to be engrossed, and read the third time to-day.

A motion was made by Mr. NICHOLAS, that the House do come to the following resolution:

Resolved, That provision be made by law for a general national establishment of banks throughout the United States, and that the profits arising from the same, together with such surplusses of revenue as may accrue, be appropriated for the "general welfare," in the construction of public roads and canals, and the establishment of seminaries for education throughout the United States.

The resolution was ordered to lie on the table.

On motion of Mr. FISK,

Resolved, That provision ought to be made, by law, for taking the third census of the inhabitants of the United States.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that Mr. FISK, Mr. PITKIN, Mr. BIBB, Mr. JONES, and Mr. WHITMAN, do prepare and bring in the same.

An engrossed bill to authorize the transportation of certain documents free of postage was read the third time, and passed.

Mr. WHITEHILL presented the petition of sundry citizens of the State of Pennsylvania, praying that the importation of foreign spirits distilled from grain may be prohibited, and that a higher duty be laid on the importation of spirits distilled from other substances.—Referred to the Committee of Commerce and Manufactures.

Mr. EPPES presented the memorial of Thomas Randolph, stating that JONATHAN JENNINGS, the sitting Delegate from the Indiana Territory, was not legally elected, and praying that his seat may be vacated, and a new election ordered.—Referred to the Committee of Elections.

COMMITTEE OF MANUFACTURES.

Mr. SAWYER asked leave to lay upon the table the following resolution, of a nature similar to one which he had proposed at the last session, which, from the shortness of the session, he presumed, rather than from any unfriendly disposition, never had been acted on:

Resolved, That a standing committee be appointed, to be called the Committee of Manufactures, whose duty it shall be to take into consideration all such petitions, matters, and things, touching manufactures, as shall be presented, or shall or may come in question and be referred to them by the House, and to report, from time to time, their opinion thereon.

Mr. S. said it was certainly too much to expect any one committee to do justice to two such important subjects, becoming daily more so, as those of commerce and manufactures. He wished to have employed on the subject of manufactures the undivided energies of the best talents of the House; he hoped that all the rays of patriotism and genius in the House would be directed to this subject as to a focal point at which they should all converge. How could one committee properly attend to the mass of business before the Committee of Commerce and Manufactures?

H. of R.

Violation of Neutral Rights.

DECEMBER, 1809.

The subjects confided to them could not be acted on, and yet important matters were continually dropping into this gulf of oblivion. This committee, however, did all that could be expected of them; he did not believe that any member of it was hostile to manufactures; he could answer for the chairman, (Mr. NEWTON,) whom he knew to be friendly to manufactures, both from precept and example. It was because it was impossible for the committee to attend to all the business before it, that he offered the resolution.

Mr. S.'s motion lies on the table one day, of course, according to the rules of the House.

VIOLATIONS OF NEUTRAL RIGHTS.

Mr. TROUP begged leave to submit to the consideration of the House several resolutions, which had for their object the vindication of the commercial rights of the United States against the belligerent nations of Europe. He submitted them at this time with less reluctance, because the introduction of them was in no wise inconsistent with the most friendly negotiation which might be pending with foreign Governments. It is high time, said Mr. T., in my opinion, that these commercial rights were either vindicated or abandoned. The remnant of commerce, which the joint operation of the belligerent decrees has left to us, is scarcely worth carrying on. To designate what this little is, would be no difficult matter, but it would be superfluous; every one who hears me understands it.

But, it would be well to inquire, on what principle the belligerents pretend to justify these commercial restrictions? The avowed principle is retaliation, but is it the true principle? Unquestionably not. And why? Because it is equally asserted by both belligerents. Both cannot be retaliators; one must be the aggressor, the other the retaliator. If this principle, then, be equally urged by both, who is to judge between them? If the alleged principle of retaliation be not the true one, what is? As respects France, the true principle of her decrees is to be sought in the policy of embarrassing England by excluding from the Continent British merchandise; and as to Great Britain, the principle of her Orders in Council may be found in the consideration of her interest and her power. She avowedly contends that it is her interest to engross the commerce of the world; that she has the power to engross it, and, therefore, she will engross it.

But, what are the principles more specifically asserted by Great Britain? First, the right of blockade by proclamation; second, the right to turn your vessels into her ports to pay duty and take out a license. This right of blockading by proclamation is not a right growing out of a state of war; it is no belligerent right; it is a pretension, as applicable to a state of peace as to a state of war, and if we submit to it in a state of war, we must submit to it in a state of peace. The only principle of blockade which we recognise is that which gives to belligerents a right to turn from ports so closely invested as to make the entry of them dangerous; and, after due warning,

vessels bound to them. But the right asserted by Great Britain to blockade by a piece of parchment or paper, issued from her Council Chamber, a port or ports, a kingdom or kingdoms, a continent or continents, is a right no more relative to a state of war than to a state of peace; and, if we submit to the pretension in a state of war, we must equally submit to it in a state of peace. It is founded on the most arbitrary tyranny, it goes to the annihilation of your commerce. As to the other right, of forcing our vessels into her ports, to pay duty and take out license, this is equally applicable to a state of peace as to a state of war. We acknowledge the right of Great Britain, or any other nation, to shut her ports against us, provided there be no treaty stipulation to the contrary. But the right of Great Britain or of France to shut the ports of any other nation against us is a right no more appertaining to a belligerent than to a neutral. If we submit to it in war, we must equally submit in peace; and this right, like the other, is founded in the most arbitrary tyranny. What right has Britain to tyrannize on the ocean, and prescribe limits to our trade? She will not permit to us a trade which she cannot herself enjoy; she prohibits to us a trade which our Government permits, because it is her interest to monopolize it. It is equally our interest to monopolize, and, therefore, if you please, sir, we will prohibit the trade which her Government permits, and which it is our interest to monopolize.

If Great Britain can rightly prohibit our trade, because it is her interest to prohibit it, have we not the right to prohibit her trade for the same reason? If she, with right and justice, can stop and seize, and confiscate our vessels because they attempt a trade which she forbids, and only because she forbids it, cannot our Government do the same in relation to her trade? If she can turn our vessels into her ports to pay duty and take out license, what prohibits us from doing the same as to her vessels? England is a nation, so are we. England is independent, so are we. What prohibits us from doing to England what England does to us? Unquestionably nothing. To say that we have no right to do to England what England does to us, is to acknowledge our own inferiority; it is to acknowledge that she may demand without limitation, and that we are under obligation to submit without limitation.

I am aware that it may be objected to the resolutions that the adoption of them would lead to hostility: but the same objection is equally applicable to any resolution which would go to the vindication of our commercial rights. They ought not to lead to hostility; they are merely retaliatory. They follow the spirit of the British Orders in Council and French decrees, and therefore cannot be complained of by either Power. There is a great and profitable commerce, and rapidly increasing, passing not indeed before our doors, but near enough to make the capture of vessels engaged in it convenient to us, which the resolutions have chiefly in view. I allude to the Brazil and Spanish Main trade.

DECEMBER, 1809.

Foreign Licenses.

H. OF R.

Is it not matter of surprise that a commerce so profitable, so extensive, and so convenient, should have been permitted to a Government which permits no commerce to us but what her convenience and her interest suggest? Is it not strange that we should have suffered that Government to participate in a commerce which both our interest and our convenience stimulate us to engross? But, above all, is it not inexplicable that we should passively have suffered the monopoly of it by her, when we ourselves were willing and able to engross it? The House will perceive, on the face of the resolutions, that, as they regard France, they are equivalent to a war measure—neither by a war measure, nor by that which I have the honor to submit, can we come in contact with France; she has no commerce on the ocean. In relation to England it is short, infinitely short, of war; because by war her Continental Colonies would fall; her West India Islands would be distressed, and our privateers would cut up her commerce; but the resolutions propose merely to retort the evils of her own injustice, to do to her what, and no more than what, she has done to us. Reserving for another occasion any further remarks, I beg leave to read the resolutions to the House.

Mr. T. then read the following resolutions:

Resolved, That it is expedient to authorize the President by law to instruct the commanders of the armed vessels of the United States to stop and bring into the ports of the same all ships or vessels with their cargoes, the property of the subjects of the King of Great Britain and of the Emperor of France, bound to ports other than those within the dominions or colonies of either.

Resolved, That it is expedient further to authorize by law the detention of all ships or vessels, with their cargoes, the property of the subjects of the King of Great Britain until the duties to be regulated and ascertained by law shall be first levied and collected upon the goods and merchandise whereof the said ships or vessels shall be laden, and until the said ships or vessels shall have received due license to depart.

Resolved, That it is expedient further to authorize by law the detention of all ships or vessels, with their cargoes, the property of the subjects of the Emperor of France, brought within the ports of the United States, there to abide the final decision or order of the Government in relation to the same.

Resolved, That an ad valorem duty of—be levied and collected on all the goods, wares, or merchandise, of British product or manufacture.

Resolved, That it is expedient further to authorize the President, on payment of the duties authorized to be levied and collected on the goods laden on board vessels the property of the subjects of the King of Great Britain, forthwith to grant a license to such vessels to depart and to proceed to the port of original destination without further hindrance or molestation.

The House having agreed to consider these resolutions—

On motion of Mr. TROUP, they were ordered to lie on the table, as he stated, to give every member the same time to consider them as he had himself taken.

TUESDAY, December 5.

Two other members, to wit: from Maryland, JOHN CAMPBELL; and from Georgia, DENNIS SMELT; appeared, and took their seats in the House.

A Message was received from the President of the United States, transmitting a report of the Secretary of the Navy, containing statements from that Department, referred to in his Message of the 29th ultimo.—Referred to the Committee of Ways and Means.

On motion of Mr. NEWTON,
Ordered, That the letter from the Secretary of the Treasury, transmitting two statements of the importations in American and foreign vessels, commencing the first of October, 1806, and ending the thirtieth of September, 1807, be referred to the Committee on Commerce and Manufactures.

Mr. POINDEXTER reported a bill supplemental to the act "extending the right of suffrage in Indiana Territory and for other purposes," which was twice read, and referred.

[This bill proposes to give to the Governor of the Territory of Indiana, for the time being, power to apportion the Representatives of the Territory, in order to form a Legislature, of which the Territory is now deprived by the peculiar operation of the law for dividing it.]

FOREIGN LICENSES.

Mr. McKIM, after some remarks going to show that no subject more imperiously demanded the attention of the Legislature than the practice pursued by some Americans, of trading under foreign licenses, submitted the following resolution, which was ordered to lie for consideration.

Resolved, That a committee be appointed to inquire into the expediency of prohibiting by law vessels owned by citizens of the United States from trading under the licenses or permissions of any foreign Prince or State, to any port or place not under the dominion of such foreign Prince or State, and that the committee have leave to report by bill or otherwise.

WEDNESDAY, December 6.

The House proceeded to consider the resolution submitted yesterday by Mr. McKIM, and the same being modified, was, upon the question put thereon, agreed to by the House, to read as follows:

Resolved, That the Committee on Commerce and Manufactures be instructed to inquire into the expediency of prohibiting, by law, vessels owned by citizens of the United States from trading under the license or permission of any foreign Prince or State, to any port or place not under the dominion of such foreign Prince or State; and that the committee have leave to report by bill or otherwise.

Mr. FINDLEY presented a petition of Joseph Joshua Dyster, praying that an act may be passed to authorize the Secretary of State immediately to grant him the patent right to a new principle for erecting iron bridges, which patent

H. OF R.

Mississippi Territory.

DECEMBER, 1809.

right cannot as yet be vested in the petitioner, because, as he states, he is not a citizen of the United States.—Referred to Messrs. FINDLEY, LEWIS, KNICKERBACKER, FRANKLIN, and BLAISDELL, with instruction to examine and report their opinion thereon to the House.

Mr. POINDEXTER presented a petition of the committee of the Baptist church at Salem Meeting House, in the Mississippi Territory, praying that the pre-emption right to a small piece of land upon which they have erected their said meeting-house, may be secured to the said church—Referred to the Committee on the Public Lands.

A message was received from the Senate, informing the House that they had chosen the Rev. O. B. BROWN their Chaplain.

Mr. LOVE presented the petition of the President and Directors of the Potomac Navigation Company, praying to be allowed to raise a sum of money by way of lottery for the use of the said company; which was referred to the Committee of the District of Columbia.

On motion of Mr. BASSETT, the Committee of Ways and Means were discharged from the consideration of the Message and documents yesterday received from the President of the United States, and they were referred to the Committee on the Naval Establishment.

The House resolved itself into a Committee of the Whole on the bill, yesterday reported, supplemental to the act extending the right of suffrage in the Territory of Indiana and for other purposes. The bill passed through the committee, and was reported to the House, and ordered to be engrossed for a third reading.

Mr. MORROW offered the following resolution, which was agreed to:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of extending the time for issuing and locating United States military land warrants, and also the propriety of extending the time for completing the locations of land warrants in the Virginia military tract, and that the committee be authorized to report by bill or otherwise.

Mr. NELSON said he had, at a former session, had the honor to submit a motion which had for its object the relief of the infirm and disabled soldiers of the United States. He now again submitted it, deeming it unnecessary to enlarge upon the subject, as follows:

Resolved, That a committee be appointed to inquire into the expediency of making provision by law for the relief of the infirm, disabled, and superannuated officers and soldiers of the late Revolutionary Army, and of the present Army of the United States; and that the committee have leave to report by bill or otherwise.

The resolution was agreed to, and the following gentlemen appointed a committee accordingly: Messrs. NELSON, HUFTY, TALLMADGE, CLAY, and DESHA.

MISSISSIPPI TERRITORY.

Mr. MILLER presented a petition of a number of the inhabitants of the district east of Pearl river, in the Mississippi Territory, praying for a division of the Territory, which he moved to refer to a select committee.

Mr. POINDEXTER objected to the reference, and stated that, in addition to other forcible considerations, the Legislature of the Territory, since the petition was presented to Congress at the last session, had unanimously passed a resolution, which he read, "that they view with the most marked disapprobation the object and views of the said petitioners, and that the Speaker forward a copy of this resolution to the Secretary of State of the United States, and another to our delegate in Congress, requesting him to use his best exertions to prevent the prayer of the petitioners being granted." Mr. P. said that, at the last session, the petition was ordered to lie on the table; he wished to give it the same direction now. By a reference to the articles of cession and agreement between the United States and Georgia, it was expressly provided that the Territory was to form one State. These articles could not be altered without the consent of the three contracting parties, the United States, Georgia, and the Mississippi Territory. If it were lawful for Congress to divide it in one point, they might divide it *ad infinitum*, and forever prevent any part of it from being admitted to the rank of a State in the Union. The United States had stipulated with Georgia that the Territory should be indivisible, and should become a State so soon as it had attained a population of 60,000 souls. If Congress were to grant the prayer of these persons, feeble as they are shown to be by an unanimous vote of the Legislature of the Territory, including their own Representatives, they would do what the Constitution forbids; they would form a small county, containing five or six thousand souls, into a separate Territorial government, at an enormous expense, and in contravention of an express stipulation with the State of Georgia. It was true that all petitions should take the ordinary course of reference to a committee; but when a petition was presented praying for the violation of the Constitution, or of an express contract, it ought not to be referred.

Mr. MILLER said he had not the pleasure of an acquaintance with the petitioners, and therefore could not say what character they bore, or how their petition might be affected by it; but in the petition itself, he saw nothing to prevent its taking the usual course of all petitions. If it were true (and he did not dispute the fact) that no division of the Territory could take place without the consent of Georgia and of the Mississippi Territory, he could see no objection to the present application, because an application for an alteration of the compact, to which the consent of three parties is necessary, must originate with one of them. If they were to apply first to the State of Georgia for a division of the Territory, they would refuse to meddle with it, because the consent of three parties was necessary; if they applied to the Mississippi Territory, they would receive the same answer; and for this reason the question would never be got at. He did not believe that the existence of such articles as those mentioned by the gentleman from Mississippi Territory was a conclusive argument against re-

DECEMBER, 1809.

System of Bankruptcy.

H. OF R.

ferring the petition, because if the three parties should consent, the Territory might be divided, notwithstanding their existence.

Mr. QUINCY said he knew nothing of the merits of the petition; but, from its contents, the arguments it offered appeared strongly in favor of a reference of it. The petitioners state that they are debarred from the comforts of civil society; that they have not even a regular judiciary. These petitioners, he said, had no Representative on the floor but the gentleman from the Territory, (Mr. POINDEXTER,) who wished to refuse a reference of their petition. Under these circumstances, it appeared to him peculiarly proper that the petitioners should have their prayer considered by the proper organ of the House. It would be much more satisfactory to them to have their petition referred than to see it treated with contempt.

Mr. MACON hoped, without declaring whether or not he would vote for a division of the Territory, that the petition would be referred. These petitioners had been, for several sessions, urging the consideration of this subject by the House. Was it in the nature of men to be satisfied, when petition after petition, sent by them, was laid on the table? The House did not indeed reject the petitions, but it would not consider them. Last session, a similar petition, presented through the Speaker of the House, had been ordered to lie on the table. What would be the consequence of giving the same course to this petition? The petitioners would come again. Mr. M. thought the petition had better be referred. A reference of the petition was a question very different from that of a division of the Territory. The people say that they are oppressed. Let us inquire into it. It may turn out that they are merely dissatisfied, and wish for a change; or it may prove to be as they state. The right of petition is merely nominal, if petitions are to be laid on the table and never considered.

Mr. SMILIE was of the same opinion with Mr. MACON. The law might be as stated by the gentleman from the Mississippi Territory, but every one could not be supposed to be as well acquainted with it as that gentleman was, and time ought to be allowed for a thorough examination into it.

Mr. POINDEXTER said it was not from any desire to stifle the consideration of the subject, but in conformity with the former proceedings of the House in this case, that he wished the petition to lie on the table. He was certain that the House had sanctioned the doctrine, where a petition was presented for an object manifestly derogatory to the Constitution and to existing contracts, of refusing to refer it, even although upon subjects then immediately before the House. Would it not be much more proper to refuse to refer a petition praying for a manifest violation of the Constitution than to refer it? That granting the prayer of the petition would violate a solemn compact, he said he could show by a reference to the articles of cession and agreement. If so, why take into consideration that on which Congress could not act? They might as well refer a peti-

tion from a State for a recession from the Union, or for an exemption from the penal laws of the United States. If the petition should be referred, he should be content; he had done his duty in opposing its reference; he was confident that no committee of the House could be selected that would make a report in favor of the prayer of the petitioners, especially when they saw such a resolution passed by the Legislature of the Territory at the express instance of their own Representatives.

Mr. UPHAM expressed himself in favor of referring the petition, as he conceived he did not sufficiently understand the subject to vote at once to reject the prayer of the petition.

Mr. RHEA, of Tennessee, said he had been sorry to hear any observations going to place the petitioners in a contemptuous point of view. If it were in the power of the House to relieve the petitioners, relief ought to be extended to them. He, therefore, wished the petition referred, and hoped the committee would report at large on the subject.

The motion for reference was agreed to; and the following gentlemen appointed a committee accordingly: Messrs. MILLER, BIBB, QUINCY, BRECKENRIDGE, LYLE, NICHOLSON, and CAMPBELL.

SYSTEM OF BANKRUPTCY.

Mr. WHITMAN presented the petition of a number of the inhabitants of Portland, Maine, praying for the establishment of an uniform system of bankruptcy; which he moved to refer to a select committee.

Mr. NEWTON moved to refer it to a Committee of the whole House.

Mr. PITKIN wished the petition rather to lie on the table than go to a Committee of the Whole. He was himself totally opposed to the object of the petition. Nothing would ensue from its reference to a Committee of the Whole, as such a committee could originate no proposition on the subject; reference of subjects to such committees being merely intended to afford an opportunity for a more free discussion of their principles.

Mr. SMILIE said we had already had one bankrupt law, and had got rid of it. He believed every honest man abhorred the system. He was clearly and decidedly against touching the subject at all.

Mr. NEWTON agreed with the gentlemen from Connecticut and Pennsylvania, that we have already had enough of bankrupt laws, and unequivocal experience of their bad effects too. He wished the petition to go to a Committee of the Whole, because when it once got there, there could be no hopes of its resurrection. The reference to that committee would be pronouncing its funeral oration, and dismissing it honorably.

Mr. PITKIN observed that he had always understood that a reference of a motion to a Committee of the Whole was for the purpose of discussion, and not for the purpose of getting rid of it. He wished it to lie on the table. If any motion were made on the subject of a system of bank-

H. OF R.

Danish Spoiliations.

DECEMBER, 1809.

ruptcy, this petition could be referred to the same committee to whom it should be referred.

Mr. WHITMAN said he was not satisfied that the subject ought not to be referred to a select committee. The petitioners respectfully prayed a consideration of the subject, and it was a respect due to them to refer their petition. Mr. W. said that the object of a reference to a select committee was, to collect information on the subject, to be submitted to the House. He was of opinion that if such information was before the House on this occasion, the minds of members would be very differently affected on the question. At present the different States had different bankrupt laws; the citizens of one State did not know what were the insolvent laws of another State, and thus, unavoidably, much difficulty arose. For this difficulty a remedy might possibly be found on a mature consideration of the subject.

Mr. WILSON said, that if the petition prayed for a particular benefit to the petitioners, it might be proper to refer it for inquiry; but when they prayed for a general law, to which almost all appeared opposed, he could not see the propriety of referring it. For his part, his mind was made up against it; and if every gentleman was in the same situation, he could not see why it should be committed.

Mr. UPHAM spoke in disapprobation of a general bankrupt system, but in favor of a reference of the petition.

On the question of referring the petition to a Committee of the Whole, there were but 18 ayes. On the question of referring it to a select committee there were but 23 ayes. So the question was lost.

The petition lies on the table, of course.

DANISH SPOILIATIONS.

Mr. WHITMAN offered, for the consideration of the House, the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before this House such information as he may have received and may deem proper to be communicated respecting seizures, captures, and condemnations, of the ships and merchandise of the citizens of the United States, under the authority of the Government of Denmark and its dependencies.

Mr. NEWTON hoped that the terms of the resolution, if it were to be passed, would be extended so far as to embrace also "Great Britain and France," and made a motion for that purpose.

Mr. WHITMAN said that his object was to obtain information on this subject; that Congress might be enabled as speedily as possible to adopt some mode of liberating our vessels, now detained from the difficulties of the situation in which they are placed. He had understood that a great number of our citizens were in a situation which required immediate relief. It had been suggested to him, that if proper measures were taken with regard to the property detained in Norway, it might be recovered; and that, if such measures were not taken, it might be wholly lost, or in a

great measure destroyed. With this view of obtaining information, he had offered the resolution, and hoped that it would pass in its present form.

Mr. NEWTON thought it important that an extensive view of this subject should be taken, and that all the information attainable should be procured. Although Denmark had done us injury, the two nations which he had mentioned had done us infinitely more. If the House took any view of the subject, he wished them to have the iniquities of all nations before them.

Mr. PITKIN said he had no objection to the addition of the words moved by the gentleman from Virginia, but he thought the House ought not to send so general a resolution to the President with respect to the two last Powers, because their vexation of our commerce having commenced from fifteen to twenty years back, it might give the President some trouble to lay before the House all the information accumulated in that time. He, therefore, thought some limitation ought to be fixed as to the time which the motion should embrace.

Mr. NEWTON presumed that, of course, the President would go no further back than to the last communications made by the Executive on the subject.

The amendment moved by Mr. NEWTON to add "Great Britain and France," was adopted—51 to 45.

Mr. TROUP said he could not conceive the object of the original resolution. He hoped it had no allusion to indemnity for spoiliations. After merchants had compelled the repeal of a salutary measure, and sent their vessels to sea in the face of the most manifest danger, it would be extraordinary indeed if they were to call upon Congress for indemnity.

Mr. MACON was of opinion, if the information was called for, that some limitation of time ought to be expressed in the resolution, though for himself he did not want the information as to Great Britain and France. Your tables have, from time to time, been loaded with the nefarious proceedings of those two Governments. As to the idea of the gentleman from Georgia, whether such a consideration is to grow out of the subject or not, I consider a question totally different from the present. The object of the present motion, as I understand it, is to get information officially of the captures by Denmark of our vessels; and I am decidedly in favor of it. Nor have I any objection to hear more of the doings of Great Britain and France, though I think every man in the nation has seen enough of them.

On motion of Mr. BASSETT, the resolution was further amended by adding to the end of it the words "not heretofore communicated to Congress."

And, after being thus amended, Mr. WHITMAN's motion passed without opposition; and Messrs. WHITMAN and KENAN were appointed a committee to wait on the President of the United States with the said resolution.

And, on motion, the House adjourned until tomorrow.

DECEMBER, 1809.

Challenges, Duels, &c.

H. OF R.

THURSDAY, December 7.

Another member, to wit: from New York, URI TRACY, appeared, and took his seat in the House.

Mr. MORROW, from the Committee on the Public Lands, to whom were referred the petitions of Charlotte Hazen, of John Fulton, and of Thomas Ayres, Benjamin Reynolds, William Fulton, and Robert Sharp, made a report thereon; which was read, and the resolution therein contained agreed to by the House, as follows:

Resolved, That the act, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," approved on the seventh of April, one thousand seven hundred and ninety-eight, ought to be revived and continued in force for a limited time: *Provided*, That no claimant under said act shall be entitled to receive a grant for any such lands until he produces satisfactory evidence that he is a resident within the United States.

Ordered, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee on the Public Lands do prepare and bring in the same.

An engrossed bill supplemental to an act, entitled "An act extending the right of suffrage in the Indiana Territory, and for other purposes;" was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to authorize the transportation of certain documents free of postage," with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the said amendment; and the same being read at the Clerk's table, was agreed to.

Mr. POYDRAS presented a representation of the Mayor, Aldermen, and citizens, of the city of New Orleans, containing a statement of facts and an exposition of the title of the United States to the parcel of ground called the Batture, in front of the suburb St. Mary, and adjoining to the said city of New Orleans.

Mr. POYDRAS also presented a petition of sundry inhabitants of New Orleans, praying that the title to the Batture aforesaid may be retained in the United States, and that it may remain open and unbuilt upon forever, and be used as a common, for the convenience and benefit of the public in general.

Ordered, That the said representation and petition be severally referred to the Committee on the Public Lands.

On motion of Mr. POINDEXTER,

Resolved, That a committee be appointed to inquire into the expediency of extending jurisdiction to the Superior Courts of the several Territories of the United States, in which a District Court has not been established, for the trial of treason and other offences against the laws of the United States, committed within the limits of said Territories, and to empower said Courts to pronounce such judgments, or sentence, on conviction of the offender or offenders, as the law di-

rects; and that they have leave to report by bill, or otherwise.

Mr. POINDEXTER, Mr. BIBB, Mr. BRECKENRIDGE, Mr. RICHARDS, and Mr. STURGES, were appointed a committee, pursuant to the said resolution.

Mr. SEYBERT observed, that on the fifth day of December, 1791, the original report of the Secretary of the Treasury, (General Alexander Hamilton,) on the subject of manufactures, was ordered to lie on the table. He said it was a document which contained much important matter, and did honor to its author. He conceived it might be made the basis on which an important superstructure might be raised. He therefore moved that it should be printed for the use of the members of the House.—Agreed to.

CHALLENGES, DUELS, &c.

Mr. BACON said he held in his hands three propositions which he deemed it his duty to submit to the House. They were not for the regulation of the great concerns with foreign nations, but for the necessary object of regulating themselves. It would be seen that these resolutions had not grown out of any personal considerations, nor out of any particular case, but out of the serious evils to which the House had been exposed by the want of such regulations from the commencement of the Government. In 1796, the evil had risen to such a height that the House had unequivocally expressed its opinion on it.* Mr. B. said he felt it his duty to express his sense on the subject by laying the resolutions on the table, and more particularly as he understood that the subject was now agitated in the committee appointed to draught rules and orders for the government of the House. He would merely remark that the resolutions might not be correct in form, or they might be altogether erroneous in principle. He was not anxious as to the particular form; but he was decidedly in favor of the general object, and wished to take the sense of the House upon it. For himself he was well prepared to act on them; but for the convenience of others he wished them to lie on the table.

Resolved, That the committee appointed to report on the rules and orders for the government of the House, do report a rule declaring, "That if any member, in the course of debate, shall make use of opprobrious or vilifying language with respect to any member, or call into question the integrity of his motives, or those of either branch of the Government in relation to the discharge of his official duties, except on a motion for impeachment, or for other interposition of the constitutional powers of this House—or apply to either indecorous or reproachful expressions—it shall be deemed a breach of the orders of the House."

That said committee be instructed further to report a rule declaring, "That if any member, during the session of Congress, whether of the House or not, shall give or send to any other member during his actual

* By concurrence in the report of a committee, of which Mr. Madison was chairman, on the subject of a letter from Mr. Gunn to Mr. Baldwin, both members of Congress; as well as on the case of Mr. Frelinghuysen.

H. OF R.

Abolition of Drawbacks, &c.

DECEMBER, 1809.

attendance at the seat of Government, a challenge to fight a duel, or if the member so challenged shall accept the same, it shall be deemed a breach of the privileges of the House, as well on the part of such members as on that of any other person whether a member or not, who shall be aiding, abetting, or assisting in giving or sending such challenge, or in carrying the same into effect, and every such member shall be held liable to be expelled from the House therefor."

That said committee be further instructed to report a rule declaring, "That if any person, during the session of Congress, whether a member of the House or not, shall commit personal violence or assault upon any member during his actual attendance at the seat of Government, it shall be deemed a breach of the privileges of the House, as well on the part of the person so assaulting, as on that of any other person who shall be aiding, abetting, or assisting therein, and such person, if a member, shall be held liable to be punished therefor, at the discretion of the House."

Ordered to lie on the table.

Mr. MACON observed, that the committee appointed to draught rules and regulations for the government of the House would sit on Saturday.

Mr. BACON then said he should call for the consideration of his motion to-morrow.

ABOLITION OF DRAWBACKS, &c.

Mr. VAN HORN said, that on Friday last a gentleman from North Carolina (Mr. MACON) had moved several resolutions, and in the course of his observations had mentioned a wish, if he had been correctly understood, to adopt something like a navigation act for the United States. Mr. V. H. said he accorded cheerfully in that idea. It was time that their attention was turned to the powers which the Constitution had given to Congress, and that they no longer suffered the time and patience of the nation to be exhausted in treating about treaty-making; for, as to making a treaty by which commerce could be regulated whilst the war continued, he had no expectation of it. He thought something must be done by Congress which should go to aid the commercial as well as agricultural interest of the country. When he spoke of the commercial interest, he meant that connected with the agricultural interest, and not that which grew out of the war in Europe, and which our merchants would wholly lose in time of peace. He had five resolutions to present, of which he would briefly state the substance. The first, he said, went to give to the shipping of the United States the exclusive exportation of articles, the growth, produce, or manufacture, of the United States. The second, proposed to confine American shipping to the exportation of articles, the growth, produce, or manufacture, of the United States. The third, by laying a discriminating duty, would give to American traders an advantage over foreign merchants in supplying us with such foreign articles as should be necessary for our consumption. The fifth went to repeal or modify the laws respecting drawbacks. That these laws were very deficient every one must believe who reflected that the same drawback was allowed on all foreign articles exported, of whatever description, whether

such as were manufactured or grown in the United States or otherwise. Without further remarks he offered the following resolutions:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of prohibiting the exportation from ports or places, under the jurisdiction of the United States, of any article, the growth, produce, or manufacture, of the United States, except in ships or vessels owned and wholly navigated by citizens of the United States.

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of prohibiting the exportation from ports or places, under the jurisdiction of the United States, in ships or vessels belonging to the United States, of any article which is not of the growth, produce, or manufacture, of the United States.

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of laying an additional discriminating duty in favor of ships owned and wholly navigated by citizens of the United States.

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of prohibiting American ships and vessels from carrying articles, the growth, produce, or manufacture, of any foreign country from any foreign port or place to another foreign port or place.

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of modifying or repealing the laws allowing drawback.

Mr. SMILIE wished these resolutions to lie on the table and be printed. He suggested to the gentleman the propriety of committing them to the Committee of Foreign Relations, instead of the Committee of Commerce and Manufactures. If it was the opinion of the former committee that the nation is not now to take a hostile attitude, he had no doubt that the very subject embraced by these resolutions would be the object of its consideration.

Mr. VAN HORN said he had no choice as to what committee they should go to; indeed, he would almost prefer any other committee than the Committee of Commerce and Manufactures; and yet he had a high opinion of the gentlemen composing the committee; but, as they came generally from commercial towns, they might not be prepossessed in favor of the propositions, because it was usual and natural for gentlemen concerned in mercantile transactions to believe that almost the whole world depended on them.

Mr. NEWTON suggested the propriety of an early disposition of the resolutions, that whatever committee they were referred to might have them immediately under consideration.

The resolutions were ordered to be printed and to lie on the table.

FRIDAY, December 8.

Two other members, to wit: from Maryland, PHILIP B. KEY, and from Virginia, DANIEL SHEPHERD, appeared, and took their seats in the House.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting

DECEMBER, 1809.

Challenges, Duels, &c.

H. OF R.

his annual report of the state of the finances of the United States, prepared in obedience to "An act to establish the Treasury Department;" which were read, and referred to the Committee of Ways and Means.

Mr. HELMS presented a petition of Harry Caldwell, of the town of Jersey, State of New Jersey, and Amasa Jackson, of the city of New York, merchants, trading under the firm of Harry Caldwell and Company, stating, that, during the last Summer, their brig, called the Joseph Rickertson, brought into the port of New Orleans three French families with their negro slaves, who had been forcibly expelled from the island of Cuba, which has subjected the said brig to condemnation for a violation of an act which prohibits the importation of slaves into the United States and their Territories; and praying such relief in the premises as shall appear just and proper.—Referred to Mr. HELMS, Mr. STEPHENSON, Mr. SMELT, Mr. KENAN, and Mr. RICHARD JACKSON, with instruction to examine and report their opinion thereon to the House.

On motion of Mr. LOVE, the petition of sundry inhabitants of the City of Washington, presented on the 26th May, 1809, was referred to the Committee for the District of Columbia.

Mr. MORROW, from the Committee on the Public Lands, presented a bill extending the time for issuing and locating military land warrants; which was read twice, and committed to a Committee of the Whole on Monday next.

On motion of Mr. TAYLOR,

Resolved, That a committee be appointed to inquire into the circumstances attending the occurrence alluded to in the letter of Mr. I. A. Coles to the Speaker of this House; that the said committee be instructed to report a statement of the facts, with their opinion thereon, to the House.

Mr. TAYLOR, Mr. GOODWYN, Mr. MONTGOMERY, Mr. SMILIE, Mr. PITKIN, Mr. TAGGART, and Mr. MATTHEWS, were appointed a committee, pursuant to the said resolution.

Ordered, That the letter from I. A. Coles to the Speaker, laid before the House on the 30th ultimo, be referred to the committee last mentioned.

A motion was made by Mr. SAWYER, that the House do proceed to the consideration of a resolution proposed by him on the 4th instant, for the appointment of a standing Committee on Manufactures; and the question being taken thereon, it was determined in the negative.

MONDAY, December 11.

Several other members, to wit: from Massachusetts, WILLIAM STEDMAN and EDWARD ST. LOE LIVERMORE; from New York, BARENT GARDENIER; and from Pennsylvania, JOHN ROSS; appeared, and took their seats in the House.

The SPEAKER laid before the House a letter from WILSON C. NICHOLAS, resigning his seat as one of the members of the House, for the State of Virginia. The letter was read, and ordered to lie on the table.

11th CON. 2d SESS.—23

Mr. MORROW, from the Committee on the Public Lands, presented a bill to revive an act, entitled "An act for the relief of the refugees from the British Provinces of Canada and Nova Scotia, and for other purposes;" which was read twice, and committed to a Committee of the Whole to-morrow.

On motion of Mr. BACON,

Resolved, That a committee be appointed for the purpose of inquiring whether any, and what, alterations or amendments are necessary to be made in the act, entitled "An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose; and that said committee have leave to report by bill, or otherwise.

Mr. BACON, Mr. KENAN, Mr. GOLD, Mr. BRECKENRIDGE, and Mr. SEYBERT, were appointed a committee, pursuant to the said resolution.

On motion of Mr. MONTGOMERY,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of extending the relief contained in the provisions of the act, entitled "An act for the remission of certain penalties and forfeitures, and for other purposes," passed the 28th June, 1809, to cases where the introduction into the United States of slaves forcibly expelled from the island of Cuba, with the French inhabitants thereof, has been from places other than the island of Cuba;" and that they have leave to report by bill, or otherwise.

A motion was made by Mr. MILLER, that the House do come to the following resolution:

Resolved, That the act passed at the second session of the tenth Congress, entitled "An act to prevent settlements being made on the lands ceded to the United States, until authorized by law," ought to be repealed.

The said resolution was read, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole, on the bill extending the time for issuing and locating military land warrants. The bill was reported with several amendments thereto; which were twice read, and agreed to by the House.

Ordered, That the said bill be engrossed, and read the third time to-morrow.

A message from the Senate informed the House that the Senate have passed a resolution, in the form of a concurrent resolution, respecting our foreign relations; to which they desire the concurrence of this House. The resolution was read twice, and referred to a Committee of the Whole on Wednesday next.

CHALLENGES, DUELS, &c.

On motion of Mr. BACON, the House proceeded to consider the resolutions submitted by him on the 7th instant, in relation to indecorous language in debate, and to the practice of duelling; when the second and third of the said resolutions were modified by the mover to read as follows:

Resolved, That said committee be instructed further to report a rule, declaring "that if, during the session of Congress, any member of the House shall give or send, to any other member during his actual attendance at the seat of Government, a challenge to fight a duel,

or if the member so challenged shall accept the same, it shall be deemed a breach of the privileges of the House, as well on the part of such members as on that of any other member who shall be aiding, abetting, or assisting, in giving or sending such challenge, or in carrying the same into effect; and every such member shall be held liable to be expelled from the House therefor."

Resolved, That said committee be further instructed to report a rule, declaring "that if, during the session of Congress, any member of the House shall commit personal violence upon, or assault, any other member during his actual attendance at the seat of Government, it shall be deemed a breach of the privileges of the House, as well on the part of the member so assaulting as on that of any other member who shall be aiding, abetting, or assisting therein; and such member shall be held liable to be punished therefor, at the discretion of the House."

The resolutions, as modified, were then referred to a Committee of the Whole on Thursday next.

BATTURE AT NEW ORLEANS.

A motion was made by Mr. SHEFFEY, that the House do come to the following resolutions:

Resolved, That provision ought to be made by law to authorize the President of the United States to cause the several persons who were removed from the batture, in front of the suburb St. Mary, in the city of New Orleans, on the 25th January, 1808, to be restored to the possession thereof; to be held with the same right with which they respectively held the same, prior to such removal; anything to the contrary notwithstanding.

Resolved, That it is expedient to authorize the President of the United States, if he shall be of opinion that the United States have such a claim to the batture, in front of the suburb of St. Mary, in the city of New Orleans, as will justify the expense of prosecuting the same, with the assent of the persons removed therefrom, on the 25th January, 1808, to name three persons, who shall have full power to hear, and finally determine, all right, title, claim, and demand, whatsoever, as well of the United States as the persons so removed, both in law and equity; and their decision, or a majority of them, shall be binding, as well on the United States as the said parties."

Resolved, That it is expedient to authorize the President of the United States, if he shall deem it most proper, to compromise the conflicting claims of the United States and the persons removed from the batture of the suburb of St. Mary, in the city of New Orleans, or cause the same to be tried in a court of the United States, in such manner, and at such place, as will secure an impartial trial.

The said resolutions were read, and ordered to lie on the table.

MR. JACKSON'S CIRCULAR.

Mr. QUINCY observed that he perceived that in the letter from Mr. Smith to Mr. Pinkney accompanying the Message from the President of the United States of the 29th November, 1809, an allusion was made to an important paper headed "Circular," which had not been communicated to Congress. He perceived, also, that by the resolution just received from the Senate, a specific declaration was required as to the contents of that very paper. It appeared to him

extremely proper that the House should have that paper on its files, and within the reach of its members, before a declaration was made respecting it. Under this impression he offered the following resolution:

Resolved, That the President of the United States be requested to lay before the House a copy of a paper purporting to be a circular letter from Mr. Jackson to the British Consuls in the United States, referred to in the letter of the Secretary of State to Mr. Pinkney, accompanying the Message of the 29th November.

Mr. DANA observed that there was another document which it might be of some importance to have on the file of the House, and which it might be also necessary to consult—that was, the despatch from Mr. Canning, which it appeared was sent by Mr. Pinkney to the Secretary of State. He moved to add that paper to the resolution.

Mr. QUINCY accepted the amendment as a part of his resolution.

Mr. W. ALSTON objected to the first part of the motion. He said the House must see the impropriety of calling on the Executive for a document of which it could not have an official copy; for, no doubt, the copy sent to Mr. Pinkney was cut out of a newspaper, and such a one only could be sent to the House. He had no objection to calling for that asked for by the gentleman from Connecticut, (Mr. DANA,) although the material parts of it were often quoted in the documents before Congress.

Mr. QUINCY said it was not his intention to call for what was not in the Secretary of State's office. The paper which he wanted was a copy of that paper transmitted across the Atlantic by the Secretary of State, as appeared by his letter to Mr. Pinkney. The gentleman might have seen Mr. Jackson's circular letter; he, Mr. Q., had not seen it; he had not been fortunate enough to obtain a copy of it. It must be in the office of the Secretary of State, for it was utterly impossible for it to have been sent to our Minister in London, without also retaining a copy in the office of the Secretary of State.

Mr. SMILIE said he would not oppose a call for any information that should be deemed proper; but he did not know upon what ground the House would call upon the President for this paper, which had not been addressed to the President, but to the British Consuls in the United States. It could not be officially in the possession of the Secretary of State, who, he presumed, had seen it in the papers, as every one else had. Mr. S. said he accidentally held in his hand a New Hampshire paper containing it, and if the gentleman from Massachusetts was desirous of perusing it, it was at his service.

Mr. EPES asked for a division of the question. He said he was willing to call for any paper which was, or might be presumed to be in possession of the Department of State; but it could not be presumed that the circular of Mr. Jackson was in that office in any other form than that referred to in Mr. Smith's letter, viz: in a printed form. Certain it was that it could not be in the Department of State, because it was dated

DECEMBER, 1809.

Mr. Jackson's Circular.

H. OF R.

subsequently to the intimation that no further communication would be received from that source by the Secretary of State. The only reason, he presumed, why the other paper alluded to had not been communicated to Congress, was, that it was a printed paper, purporting to be a despatch from Mr. Canning. He had no further objection to the call for either of these papers, other than it was neither decorous or proper to call upon the President for that which could not be officially in his possession.

Mr. GARDENIER observed that, in addition to other forcible considerations, it would be treating the Executive rudely, when he had called their attention to a particular paper, to go to any other source to procure it; besides that, in the latter case, a spurious copy might be imposed upon the House. If the President referred to a certain document as justifying his conduct, by procuring that document the House would have the whole ground before it. What would be the situation of the House, if, pursuing the ideas of some gentlemen, every member was to bring forward a document which he believed to be the legitimate one, and all these copies should differ? Who was to decide which was the correct one? If the House were to act at all on this subject, it was not only respectful and just to the President, but extremely civil, to inquire of him on what ground he has acted. As a true American, and staunch republican, Mr. G. was desirous to give the President every opportunity of doing himself justice.

Mr. QUINCY said that a copy of this circular having been forwarded to our Minister in England, a copy must remain on the files of the Secretary of State's office; and, therefore, he asked for it merely that the House might have on this occasion precisely that information which the Secretary of State had communicated to Mr. Pinkney.

Mr. POTTER cited as a reason why Mr. QUINCY's motion should be agreed to, that between the copy of Mr. Champagny's letter to our Minister in France as it appeared in the public prints, and as since communicated to Congress, there was a material variation. If in that case there was a variance between different copies, it was equally probable that there should be a variance in the different copies of Mr. Jackson's circular.

The question was taken on the first part of the resolution, viz: on that part moved by Mr. QUINCY, and finally carried—yeas 53, nays 52.

The question was then taken on Mr. DANA's amendment, viz: on that part calling for a copy of the paper purporting to be a despatch from Mr. Canning to Mr. Erskine, and carried without opposition.

Mr. WHITMAN offered an amendment understood to be intended to embrace in the papers to be called for, the note from Mr. Erskine to Mr. Smith containing the "three conditions" which are admitted in Mr. Smith's letter of October 19, to have been submitted to him by Mr. Erskine.

On the suggestion of Mr. QUINCY, this motion was declared to be out of order, as it was now too

late to receive an amendment to the resolution, both clauses of it having been affirmed by the House.

The question was then put on the whole resolution, as amended, and the yeas and nays being demanded on its passage,

Mr. REEA said he should vote against the resolution, as by passing it the House could add nothing to its stock of information, nor receive any official document; in both cases it could receive only a printed paper.

Mr. SMILIE said he had no objection to one part of the resolution—that which called for a copy of the despatch from Mr. Canning to Mr. Erskine—but connected with the other paper, he could not agree to it, for it would be the most extraordinary call he had ever witnessed since he had held a seat in Congress. What! said he, shall we call upon the Executive to send to us a paper which is not, never was, and could not be officially in its possession? It is known to every member of the House that the Secretary of State cannot have in his possession any other copy of this paper than such as is in the hands of every member in the House and of every man out of doors. I should think, sir, when we consider the nature of the paper alluded to, that there is nothing in it which would create any prejudice in its favor in the mind of any American in heart, if brought into this House. What is this paper? It is an appeal to the people of the United States. I for one shall not be guilty of the absurdity of calling for a paper which I know is not in the possession of the President any more than it is in mine. For the latter part of the motion, if distinct from the first, I would gladly vote.

Mr. WHEATON said that he was in favor of both branches of the resolution, taken together. There seemed to be a difficulty with some gentlemen with respect to the first branch of it, and it seemed to be contended that the paper there alluded to, being published in newspapers only, ought not to be noticed. In reply to this, it might be observed that the Secretary of State had thought proper to notice it in his correspondence with our Minister in London, and it was, therefore, before the House. The House was not called upon to act upon a paper which might be variously published in various prints, but on a paper such as the Secretary of State had thought proper to transmit to our Minister in London. Mr. W. said he therefore wanted not to know what had appeared in the newspapers, but what had been forwarded to our Minister in London. To obtain this, an application to the President was the proper mode, and he could not see why there should be any objection to its being exhibited.

Mr. TROUP said he had voted in favor of the latter part of this resolution, and against the first; and he must now be compelled to vote against both combined. He deemed the object of the resolution to be improper, because on the face of it it appeared that the paper asked for was an official letter. If procuring a copy of it from the Secretary of State would establish its authen-

H. OF R.

Mr. Jackson's Circular.

DECEMBER, 1809.

ticity, there could be no objection to the call. But the communicating or withholding would not stamp authenticity on it, because it was a document of which the Department of State could not have an official copy.

Mr. MACON said he did not attach so much consequence to this motion as either its advocates or opponents appeared to do. The object was to get a paper which had been published in all the newspapers of the United States—Mr. Jackson's Circular, which it was clear could not be sent to the House in an official form, because it was not addressed to any department, but to the British Consuls. The other paper asked for was a document with the substance of which every one was acquainted. Without inquiring what was the object of the call, if any gentlemen wanted a copy of any paper in the Department of State, he would never object to gratify them. It had been said that the House should not call for it, because it was addressed to the British Consuls; but, Mr. M. said, it was known to have been written by Mr. Jackson, because if it had not it would have been long ago denied. It was called an appeal to the people; so was Genet's—but Mr. M. said, he had never cared anything about these appeals—he should not care if Mr. Jackson should make another, because he had no apprehension of any effect such things could have in this country. It could not be positively ascertained whether or not the letter in question was written by Mr. Jackson, but by calling on the printers; and he had no idea of meddling with them—he only claimed the privilege of believing what he pleased of their publications. Mr. M. was in favor of the resolution, because other gentlemen wished the papers for their information.

Mr. QUINCY said that the importance of this resolution lay in this; that the House was called upon (by the resolution from the Senate) to decide on the contents of a paper the existence of which was first made known to them by communications from the Executive. When called upon in this way, was it not a duty the House owed to itself to ask for the papers on which it was to express an opinion? The House would not do justice to itself if it did not ask for them after the intimation they had received that they were in possession of the Secretary of State.

Mr. UPHAM thought it necessary to have the very paper that was communicated by our Secretary of State to Mr. Pinkney. He recollected very well that on his journey to this city, he saw in two papers in New York this very circular represented in two different ways.

Mr. GARDENIER remarked that he took it for granted, that the more carefully the House proceeded, the more fully it possessed itself of all the documents on the subject on which they were about to legislate, the more impressive upon their own country and upon the world, to whom in part the resolution appeared intended to be addressed, would their decision be. The determination to be made should appear not to result from passion, but from a deliberation and cool-

ness worthy the representatives of a great nation. He professed sincerely that upon the subject of the resolution from the Senate he had formed no opinion, neither should he vote for the present motion, because he inclined to one side or other on the former. He wished to possess himself of all the facts on the subject. It appeared that a copy of this circular had been forwarded to our Minister in London, in order to guide him in his conduct, Mr. G. presumed. We, said Mr. G., are called upon to act here on the subject; our Minister at London is directed to act there. If he has a right, to enable him to discharge his duty, to have a copy of this paper communicated to him, shall we not also have the same privilege? The question, he said, was not whether the document was officially on record in the Secretary of State's office, but whether the House should be called upon to act on a document which was not before it. With the same propriety might a jury be refused the hearing evidence on a case on which they were called to decide, as the House could be refused a copy of this paper. It was said that it was only a newspaper publication. Newspaper publication or not, originally, Mr. G. said, that the President had made it a public document by communicating it officially to our Minister in London. He was satisfied that the President could have no objection to communicate it; for he well remembered that his predecessor had sent to the House, about the time of laying the famous embargo, a paragraph from an English newspaper containing something like a surmise that certain Orders in Council would be issued. If, as it had been said, the present President would follow in the footsteps of his predecessors, he could not have the least objection to comply with the request of the House to send a newspaper document, when his predecessor had sent one without any request at all.

Mr. SMILE said that if the call was made, the House could get no more than what every one had seen; and he called upon any gentleman to say that he had not seen the circular in the public prints, and also whether he believed that the House could get from the Executive any other information than that which every member had or might have in his possession. He confessed for his own part that he thought it would scarcely be treating the Executive with that delicacy due from one department of the Government to another, to call upon him for a paper not officially in his possession, in order to see whether or not he had transmitted a faithful copy to our Minister in London. It seemed to insinuate a doubt of the propriety of his conduct.—[Mr. GARDENIER said that no such thing was meant.] Mr. SMILE said that he did not believe gentlemen did mean it; but it was a reflection that naturally flowed from the circumstances. He did not know, if they could trust the Executive, why they should call for a paper already in every one's hands. He recollected a former case, and this was not the first appeal that had ever been made to the people. When Genet was the French Minister here, Mr. S. said, he had taken a step

DECEMBER, 1809.

Mr. Jackson's Circular.

H. of R.

more direct than in the present case, and yet Congress had never called on General WASHINGTON for a copy of his appeal; for it had, as in the present case, been published in all the papers, and no one had doubted its authenticity. If the House was not to act on the case till they got the authenticated copy of the document in question, they never would act, for assuredly they would not get it; but if no one entertained a doubt on the subject, he thought they might act with propriety.

Mr. DANA said, that by the message from the Senate the House was called upon to express an opinion on a certain paper, to decide what was its meaning, and to concur with the Senate in affixing to it terms of reprobation. And was the House of Representatives to pronounce on this subject without having the paper before them? Could they, in point of legislative decorum and propriety, undertake to judge without seeing the paper in form? Would gentlemen refer them to newspapers for documents on which to act? He certainly never expected to hear it advanced on this floor that members of the House were to keep a file of every newspaper containing a document. If this was necessary, he had certainly been deficient in his duty; for he had not kept a paper containing a copy of the circular said to have been written by Mr. Jackson. Whatever construction had been given by the President or Secretary of State to a particular document, with all deference to their honor and virtue, Mr. D. said, he could not consent to surrender his own right of construction, of examination, and of judgment, nor to prostrate his understanding, however feeble, at the foot of the Executive or any department of the Government. Really, if newspaper publications were to be considered as authentic and sufficient for the use of members of this House, why had the House ordered five thousand copies of the documents to be printed for its use, when all the documents appeared in the newspapers before they had been printed for the use of the House? In point of propriety and respect to the Senate, Mr. D. said he might be at liberty to say that it was fair to presume that that body had the paper before them; he could not permit himself to imagine that they would have acted without it before them; and he hoped that the representatives of the people would also show a sufficient respect for themselves to have it before them when it was the subject of their deliberation.

Mr. RHEA, by several arguments, enforced the idea that the Government could have no other source of information on this subject than he or any other individual had. The statement made by a gentleman from Massachusetts, that variant copies of this document had appeared, was the very reason that he would vote against the resolution; because the Executive could not be responsible for the correctness of the copy which it had in its possession. Mr. Smith's letter to Mr. Pinkney did not state the enclosure of a copy of the letter, but of a paper purporting to be a copy of a letter written by Mr. Jackson. The gentleman

from Massachusetts had said that he had not seen the letter. Mr. R. said he had no objection to have copies of it printed for the use of the House, from a copy to be taken from a newspaper; but he would not call upon the President for it, for by so doing they would remove the responsibility for its correctness from the newspaper publications to the Executive authority.

Mr. MILNOR was of opinion that, being called upon to pronounce a solemn opinion on a certain proceeding, they should have all the papers relating to it before them. He asked whether, when the House was called upon to pronounce an opinion and make a decision which might lead to a war, they should not have the same information before them that the President had before him? Mr. M. said he felt every disposition to support the Executive in all proper measures in the execution of his duty; he was ready to meet the question proposed whenever the House had before them the documents on which he had acted. Until they had them, it was impossible that they could make a just decision.

Mr. NEWTON said he should decidedly vote for the resolution before the House. The vote which he should give did not proceed from any disrespect to the President; the simple reason which would induce him to vote for it was, a desire that when the House came to a discussion of the resolution from the Senate, they should proceed to the merits of it; that no incidental question should be discussed; that no gentleman should have an opportunity of saying that he could not vote for it because the House had refused to call for documents.

Mr. BIBB said that if the mover of the resolution had any other object in view than was expressed on the face of it, it was perfectly immaterial to him and must be so to the House. He should vote for the resolution not because the papers would have any influence on his conduct, but because they were deemed of importance by others whose duty it was as well as his own to endeavor to relieve their country from its embarrassments. It appeared to him that any member had a right to ask of the Executive any public document which he deemed necessary for the government of his conduct in Legislative matters. The gentleman from Massachusetts (Mr. QUINCY) having declared such to be his situation in regard to the present paper, Mr. B. said he ought to have it.

Mr. W. ALSTON said that gentlemen spoke of their being called upon to vote on the resolution from the Senate without this paper. If that resolution was not pleasing to them, it was open to amendment. If the friends of the resolution failed to justify it from the want of the paper in question, its opponents could make use of that argument against it. The letter of Mr. Jackson was known to be nearly verbatim with the note delivered by Mr. Smith to Mr. Oakley; and no additional information could be derived from the call, although embarrassment might be created.

Mr. UPHAM said it was for the very purpose of seeing whether the circular coincided with the

note just alluded to, that he wished to see it. Why then refuse to call for it?

Mr. ERPES said, lest it should be thought, from what had been said by others, that in voting against the resolution he should be desirous of acting without information, he should make a few remarks. This was not an ordinary case, in which application ought to be made to a department of the Government for information—for what department, could say, whether the piece to which the British Minister's name was subscribed was a genuine paper or not? You know (said Mr. ERPES) to a certainty that the letters have not gone to the Secretary of State by an official channel, but that he possesses the same information as you do, and no other. In every case of this kind, are you not compelled to act on newspaper information? If in any instance a Legislative body attempts to examine the conduct of a Minister appealing from the Executive to the people, on what must it decide? Is it to be expected that his address will be forwarded to the President? No sir; it is from the Executive the appeal is made, and it will be found in newspapers, pamphlets, or some other form, circulating among the people. On the present occasion, as to the authenticity of the paper, I for one, without expressing an opinion on the merits of it, have no hesitation in saying that I believe it to be a genuine paper, written by the Minister of Great Britain for the purpose of appealing from the constituted authority to the people of this country. If you apply now to the Secretary of State as proposed, what can he do? He has become possessed of information in the same way with yourself; and, in transmitting it to our Minister, he does not call it a copy of the letter, but a paper purporting to be a copy of a letter, &c. Now, if this paper had come in any official form to the Secretary of State, it would be proper for Congress to call for it. But of what importance is it to obtain information cut out of a public newspaper? This motion does not affect the inquiry on the resolution from the Senate, which is, whether, from the circumstance of the letter appearing in print, and not being denied by the British Minister, from a view of all the circumstances, Congress shall think it a proper subject on which to legislate? If they believe that on a paper thus dispersed they cannot act without ascertaining its authenticity, let them summon the printer and take other steps to ascertain it. The appeal is from the Government, and to them. I should last of all look for a copy of it. The letter from Mr. Canning to Mr. Erskine, coming enclosed from our Minister at London, I have no objection to call for; but because I have no objection to take that part of the resolution, I cannot swallow the nauseous drug which which it is compounded.

The question was then decided by yeas and nays, in the affirmative—yeas 69, nays 46, as follows:

YEAS—Ezekiel Bacon, William W. Bibb, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus

Champion, Martin Chittenden, Howell Cobb, Henry Crist, Samuel W. Dana, John Davenport, jun., John Dawson, Joseph Desha, William Ely, James Emott, Barent Gardenier, Gideon Gardner, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, Jonathan H. Hubbard, Richard Jackson, Thomas Kenan, Philip B. Key, Edward St. Loe Livermore, Robert Le Roy Livingston, Nathaniel Macon, Robert Marion, Vincent Matthews, Archibald McBryde, Pleasant M. Miller, Wm. Milnor, Nicholas R. Moore, Jonathan O. Mosely, Roger Nelson, Thomas Newton, John Nicholson, Joseph Pearson, Timothy Pitkin, jr., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Ross, Thomas Sammons, Daniel Sheffey, Dennis Smelt, George Smith, John Smith, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benj. Tallmadge, John Taylor, John Thompson, Charles Turner, junior, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jun., William Anderson, David Bard, Adam Boyd, Robt. Brown, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, James Cochran, William Crawford, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Thomas Gholson, junior, Peterson Goodwyn, Edwin Gray, Wm. Helms, Jacob Hufty, Richard M. Johnson, William Kennedy, Aaron Lyle, Samuel McKee, Alexander McKim, John Montgomery, Thomas Moore, Jeremiah Morrow, Thomas Newbold, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, Ebenezer Sage, Adam Seybert, Samuel Shaw, John Smilie, Uri Tracy, George M. Troup, Robert Weakley, Robert Whitehill, Robert Witherspoon.

Mr. QUINCY and Mr. DANA, were appointed a committee to present the foregoing resolution to the President of the United States.

TUESDAY, December 12.

Another member, to wit: from Massachusetts, EBENEZER SEAVER, appeared, and took his seat.

An engrossed bill extending the time for issuing and locating military land warrants, was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act supplementary to an act entitled 'An act extending the right of suffrage in the Indiana Territory, and for other purposes,' with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the said amendment; and the same being twice read, was agreed to by the House.

Mr. JENNINGS presented three petitions of sundry inhabitants of the Indiana Territory, respectively praying that the right of suffrage may be extended to every free white male inhabitant in said Territory, who shall have attained to the age of twenty-one years, and shall have paid a county or Territorial tax, or shall have performed militia duty; and that the people may be enabled to choose their own officers, both civil and military.—Referred.

DECEMBER, 1809.

Relations with Great Britain.

H. OF R.

COMMITTEE OF MANUFACTURES.

Mr. SAWYER called for the consideration of the motion submitted by him for appointing a separate Committee of Manufactures.

The House agreed to consider the resolution, ayes 68.

Mr. SEYBERT supported the motion on the ground of the propriety of paying a more particular attention to the subject of manufactures, which had lately become of great importance.

Mr. NEWTON opposed the motion as unnecessary, because the Committee of Commerce and Manufactures was competent to the performance of all the business assigned it, and had always manifested a disposition to foster the manufactures of the United States.

The question on the resolution was decided in the negative, 24 members only rising in the affirmative.

WEDNESDAY, December 13.

Mr. LOVE presented a memorial of the Board of Trustees of the Public Schools of the city of Washington, praying the patronage of Congress in the institution of a college in Washington.—Referred to the Committee for the District of Columbia.

A report was received from the Secretary of the Treasury, enclosing, in pursuance of a standing resolution of the House, a statement of the drawbacks payable on articles exported from the United States in the years 1806, 1807, and 1808, compared with the amount of duties collected on the same respectively. From this statement the following abstract is made:

| | <i>Duties Received.</i> | <i>Drawbacks Payable.</i> |
|-------------|-------------------------|---------------------------|
| Years 1806, | 26,197,658 | 9,146,875 |
| 1807, | 26,709,833 | 10,067,191 |
| 1808, | 11,158,617 | 249,395 |

Ordered, That the report lie on the table.

A bill from the Senate for extending to Joseph Joshua Dyster certain privileges, (permitting him to obtain a patent for the invention of cast iron bridges, he not yet being a citizen;) and a bill in addition to an act regulating the laying out and making a road from Cumberland in the State of Maryland to the State of Ohio, were each read the first and second time, and the first referred to a Committee of the Whole, and the latter to a select committee, consisting of Messrs. MORROW, NELSON, LEWIS, ROSS, and GARDENIER.

Mr. QUINCY, from the committee appointed to wait on the President of the United States in pursuance of a resolution of the House of Monday last, reported that they had performed the duty assigned them, and that the President had expressed his disposition to comply with the request of the House as far as practicable.

RELATIONS WITH GREAT BRITAIN.

Mr. GOLD rose for the purpose of moving a resolution to call upon the Executive for information, affecting, as he conceived, the resolution from the Senate respecting Mr. Jackson. To show the object of his motion, Mr. G. quoted

from the letter from the Secretary of State to Mr. Pinkney, of the 23d of November last, the following passage: "Another point in the despatch and 'not in the arrangement, is, that the British navy might capture our trade to ports prohibited by the United States. This condition, too, appears to have had its origin in a mistake of your meaning in a conversation with Mr. Canning, as 'noted by yourself.' On referring to the communications made, and the correspondence presented to the House from the American Minister, he did not find the despatch there referred to. He said he found also in Mr. Erskine's letter to Mr. Smith, of the 14th of August, that reference was made to the same subject, and the same point was stated by Mr. Canning to have been assented to by Mr. Pinkney. The subject might not otherwise be of the most important nature, but, inasmuch as the resolution from the Senate seemed to point to the last resort of nations, war, it seemed to him important that the House should proceed circumspectly in the whole business; and it would certainly be seen by the House that it was proper to have the fullest information on the subject. Impressed himself with this idea, he offered the following resolution:

Resolved, That the President of the United States be requested to lay before this House such information contained in any despatch from the American Minister in London, relative to the instruction of Mr. Canning to Mr. Erskine, of the 23d day of January, 1809, and relative to any communications and conversations between the American Minister and Mr. Canning antecedent or subsequent thereto on the same subject, as may not, in the opinion of the President, be improper to be communicated.

Mr. BACON thought that the information asked for had no sort of connexion with the resolution from the Senate, which related merely to the conduct of Mr. Jackson, and which was of course to be decided by the proceedings of the Minister himself. In the consideration of this resolution, then, it would be immaterial to inquire what had given rise to the mistake of Mr. Canning. If the object of the resolution were to justify or accuse Mr. Canning, this information might be necessary. Suppose it should be ascertained that the proposition of Mr. Canning grew out of his own mistake, or originated with him, it was impossible to see what bearing it had upon the proposition from the Senate, which went to make a pledge to the nation to support the Executive in any result which might be consequent on the course it had pursued. Though he was willing at all times to call for all necessary papers, he could not see the propriety of passing this resolution, which only called upon the Executive for such papers as he should think proper to communicate, and which he no doubt had already done without waiting for a request by the House.

Mr. GOLD said that the House could not, as the gentleman supposed, have all the information on this subject already before it; for an express reference had been shown to a despatch from Mr. Pinkney, which was not to be found among the papers communicated. The House had called for

Mr. Canning's despatch to Mr. Erskine, of the 23d of January, and would they not have all its concomitants? Was it not of some importance to have all the papers which gave rise to it? Was it not proper, at this momentous crisis, that what our Minister in London had thought proper to communicate, this House should also have? The great question of peace or war was not to be decided on feeble grounds. When the time came that war should become a question, every inch of ground would be strictly scrutinized. It was important, on this occasion, to see whether that condition in Mr. Canning's despatch, which carried such hostile features on its face, might not be softened by the discovery that it originated, in some degree, in the agent of this country in England. A mistake arising, under these circumstances, would much soften the features of hostility. If the matter had been deemed by our Minister of sufficient importance to be communicated to the Executive, was it not important, also, that Congress should have it? As the House had called for the despatch of Mr. Canning, including that condition, was it not important that they should also have everything relating to it?

Mr. GARDENIER observed that, although the paper called for might not be necessary to the decision of the resolution from the Senate, it by no means followed that it was not necessary at all. The House were called upon to do more than merely to pass the resolution. If the honor and dignity of the nation had been sacrificed, as was stated, if the ground taken by the Executive was correct, he trusted they would do more than pass a resolution; he trusted that they would abandon this paper system, by which the nation had sunk in the estimation of foreign Powers. But, before they took that ground, he trusted, likewise, that they would look before them at every step; that they would be careful in all things that their quarrel was just. He said it was not to be concealed, and no American could conceal it from himself, that the third condition contained in the despatch from Mr. Canning to Mr. Erskine was such a one as the United States could not accede to. They could never call in the aid of any foreign nation to support those laws, because that would be to confess the impotence of the country to enforce its own acts. But, Mr. G. said, there were two parties to this question. That part of the world, not yet under the control of Napoleon, was to decide whether the United States or their adversary be right. To satisfy them, and all men who love justice, he said that it was necessary that this Government should make out the case in its own favor, and show that the British Government was in the wrong. The British Government had proposed that their navy should be expressly permitted to assist in executing a law to be passed by the Legislature of the United States. They had said, also, that, in making this proposition, they had acted not from their own impulse, but were warranted in suggesting it from its having been first proposed by our Minister in London. If this be correct, said Mr. G., our Government can have nothing to complain of. If our Minister

in London has told the British Government that we were prepared to accede to such an arrangement, then, assuredly, there is nothing reprehensible in the British Government's being willing to take as much as we were willing to surrender. On our part, therefore, it is important that the declaration of Mr. Canning should be repelled; that the proposition did come from the British Government originally, and not from our Minister; because, in the latter case, we should have no cause of complaint on that ground. Let me not be understood to say that I would place confidence in the declaration of Mr. Canning, and disbelieve our own Government; but I merely wish to see the evidence which will clear the subject from all doubt. It is agreed by both parties, as appears from Mr. Smith's letter to Mr. Pinkney, that there had been a conversation on the subject, but it is alleged that the meaning of our Minister has been misapprehended. I wish to know what Mr. Pinkney did say, and how Mr. Canning came so widely to misunderstand him; I am desirous that it should appear that the third proposition did not derive its origin from our Government or from any agent of it abroad. It would appear extremely singular that a document which contains the means of putting down the statement of an adverse Government should be in our possession, and that gentlemen should be unwilling to let it come forth. Let me tell the gentleman from Massachusetts, who, I believe, sir, is quite as much attached to the Administration of the Government as I am, that he does injustice by withholding from them the opportunity of justifying themselves. No doubt Mr. Pinkney has satisfactorily explained the matter to the Executive; and no doubt the same explanation would be satisfactory to us as to his share in the transaction. But, Mr. G. said, standing here as the advocate of the honor and dignity of the United States, he wished nothing to be withheld. The President would thank the House, as he ought to do, for calling for information on this one point, if it were made out clearly on the side of the Government. If not made out in consequence of withholding information, gentlemen would see in what situation they would be placed. It was well known that, in this country, there were a great many skeptical captious people called Federalists—and what would they say if the information asked was refused? Why, that the Administration dare not communicate it; that this must be a lame part of the story, and therefore was not published; they would say that the Administration had given to the world so much as was favorable to themselves, and that what was otherwise had been withheld. If such should prove to be the fact, it would not be very honorable to the Executive. But, Mr. G. said, he had a confidence in the Executive, as he had said at the late session of Congress, and he would not surrender it until he was compelled to do so, and therefore he wished for the best evidence in his favor.

The President of the United States, in his Message to Congress, had in strong terms imputed to the British Government a breach of good

DECEMBER, 1809.

Relations with Great Britain.

H. OF R.

faith; its Minister, too, had been rejected on account of his alleged insolence. This, Mr. G. said, was the rolling of clouds which preceded a storm, and which was not to pass over without producing some concussion. If this nation was to go to war the people must first be satisfied that the cause was just. With a divided people it was in vain to think of going to war. He pledged himself to the House that that description of gentlemen called the minority would proceed to the examination of this subject with that pure spirit of patriotism, which, in alarming times, became peculiarly necessary; that no party disposition would be shown to embarrass the Government, provided everything, when examined, should appear to be fair and open.

Mr. G. concluded by hoping that, as it was important in this case to prove that Mr. Canning had erred, the House, too, should know what the Executive knew. They had as strong a right to know. The Executive received all information on our foreign relations, not that he alone was peculiarly entitled to it, but because it was most convenient that he should be the organ of communication with our Ministers abroad.

Mr. EPPES said, he should not have risen on the present occasion but that it appeared to him that the course taken by the gentleman from New York was calculated to give to this resolution a very different aspect from that which it bore on the face of it, and was calculated to carry to the American people and nation an impression that the grounds of difference now existing between the United States and Great Britain depended—on what? On, perhaps, the least important point of collision which existed, viz: a tender of the British navy to enforce the laws of the United States, thereby insinuating that they themselves were unable to enforce them—an insinuation made repeatedly on this floor; and which, when compared with the circumstances disclosed by the documents laid before Congress, was but as a drop in the ocean to the immense field of British enormities, duplicity, and deceit. Look, said he, at the letter of the Secretary of State, in which are stated the grounds on which matters now rest. A new Minister comes here, after the arrangement entered into and executed on our part is disavowed, and offers no explanation as to the motives of it. As to the affair of the Chesapeake, what have we there? The Minister is charged with no proposition but such as has been previously rejected, with none but such as the British Government knew would be rejected with scorn in this country. When Mr. Rose was sent here to atone for the outrage on the Chesapeake; the first step taken by him was to require the annulling a proclamation issued to prevent the recurrence of similar events; and what is the proposition of Mr. Jackson in relation to it, after the proclamation has been virtually repealed? Why, he must have a formal acknowledgment of its repeal. It is a decisive proof that there is no sincere desire in the British Government for a settlement of that point, because they propose terms dishonorable, terms which have

been before rejected. There is another point of difference which should have entered into the view of the gentleman from New York. No proposition whatever has been made with respect to the Orders in Council, and it is declared that the principle of them they will never cease to maintain. Another point insisted on, previous to any friendly arrangement, is the express renunciation of the colonial trade not permitted in time of peace. I have said thus much to remind the gentleman that it is not because Britain has tendered her aid to execute our laws merely that we have cause of complaint against her, but because she has manifested a total want of good faith in refusing to fulfil an arrangement formally concluded, and by making propositions which she must know would be rejected, because they could not be honorably accepted. As to the resolution before the House, Mr. E. said, he cared very little about it. He believed if the gentleman would take the trouble of looking over the documents of the last session, he would find the paper desired. But, that no gentleman might have it in his power to say that he had not all the information before him that he could require, he should vote for the resolution.

Mr. KEY said that, whenever the Representatives of the nation were called upon to act, upon any momentous occasion, as the present certainly was, it was all-important to them and to the people at large, to possess all the information to be had compatible with propriety. It was manifest that the Executive was possessed of information which might be beneficial, and, therefore, ought to be laid before Congress. He said he alluded particularly to the correspondence of Mr. Pinkney with the Executive on this subject. He said he had seen nowhere an account of what were the views taken by that gentleman of the instructions to Mr. Erskine. Mr. Pinkney, Mr. K. said, was a man of high character, of great talents, and of unquestionable zeal for his country's good; and it was impossible that he should have lost a moment in presenting to our Government the views of the Government of the nation to which he is our Minister. Mr. Canning had said that he had communicated to Mr. Pinkney Mr. Erskine's instructions *in extenso*. So important a fact would certainly not have been omitted to be communicated by our Minister. Mr. K. said, he wished to see whether Mr. Canning had correctly stated what had taken place, and in what manner Mr. Pinkney had conveyed the information to our Government. He had confidence enough in the Executive to submit to his discretion to lay before the House such part of this communication as he should think proper. But, satisfied as he was that important documents must be in possession of the Executive, he wished, when called upon to act on a great question, which would involve the dearest interests of the country, to be possessed of all the information possessed by the Executive on the subject. He therefore said he should vote for the resolution.

Mr. RHEA, of Tennessee, said he should vote against the resolution, because it called for inform-

ation irrelevant to any question before the House, and because on a subject the consideration of which appeared to him to have been precluded by the arrangement entered into in April last. He said, he found by the documents laid before them, that strenuous efforts had been made by Mr. Jackson to call up the discussion of it afresh, on the principle that the arrangement concluded by Mr. Erskine was unauthorized, and entered into by our Government with the knowledge of its being so. Mr. R. said he was against giving any color whatever to that opinion. He never was opposed to calling for necessary information; but the reason he had assigned was sufficient, if there were no other, to induce him to vote against the motion. Mr. Erskine having denied ever having given his Government any reason to suppose, from any conversation he had held with members of the Executive, that they would agree to the third proposition, it seemed to be thought necessary to throw the burden of it on Mr. Pinkney. The very nature of the proposition itself ought to induce gentlemen to reject every motion to inquire into it. He would spurn the idea of inquiring what Mr. Pinkney had thought of it, because it went to a point in itself wholly inadmissible; as much so, as if the British Government had proposed to Congress to prepare projects of laws for them. It had been stated by Mr. Jackson that the arrangement was disavowed because the instructions contained in the note of the 23d of January were not complied with, which instruction included this third proposition. And, of course, this third proposition must be assented to before any negotiation could be brought to a conclusion. But, Mr. R. said, in his opinion, all this was foreign to the resolution from the Senate, which merely respected the conduct of Mr. Jackson to this Government, and whether this Government had done right in the manner in which it had treated him. He further remarked that it was evidently not Mr. Pinkney but Mr. Canning who had mistaken the meaning of their mutual conversations, because Mr. P. could not have had any doubts on the subject of such a proposal. And, what had this House to do with Mr. Canning's mistakes? They were not going to erect an inquisition into the correctness or incorrectness of his ideas, and therefore needed no information on the subject of them.

On the 27th of May, Mr. R. said, our Minister had been made acquainted with Mr. Erskine's instructions; and the arrangement was made on the 19th April. So that it had been executed by the United States prior to the time at which the instructions of Mr. Erskine were communicated to Mr. Pinkney. If Mr. Canning was at that time devising means of disavowing the arrangement which he expected was entered into, what was that to the United States? That arrangement, he said, had been a plain matter of bargain, which, after having been executed with good faith by one party to it, was refused to be fulfilled by the other.

It had been said that the British Government had a right to get from our Minister whatever

they could, and that therefore the third condition in Mr. Canning's despatch had been prescribed. Where was the evidence that Mr. Pinkney had ever proposed or assented to it? Mr. R.'s opinion of him was such, he said, that he could not permit himself to suppose that he would assent to such a proposition; and it was not treating him with justice to suppose so. Mr. R. said it was not for him to say whether or not war would result from the present state of things—he wished not for war—but this consideration had no connexion with the resolution; against which he should vote, for the reasons some of which he had assigned.

Mr. GOLD said that he had examined the documents communicated at the last session, and found no such despatch as that alluded to by the gentleman from Virginia; and if that gentleman, whom he always heard with pleasure, would recollect the state of things, at the last session, he would hardly believe that the Executive would have been justifiable in communicating any correspondence which might recall hostile sentiments. That cause for forbearance did not now exist. He wished information from the fountain head, from Mr. Pinkney himself, who had been a party in the conversation alluded to; and he could perceive no reason why gentlemen should oppose it. He thanked the gentleman from Virginia for not limiting the discussion to that narrow point to which it was attempted to be confined by the gentleman from Massachusetts, (Mr. BACON.) Gentlemen would see that they had arrived at a point at which the whole correspondence on this odious, offensive despatch from Mr. Canning should be communicated.

Mr. QUINCY stated the motion before the House, in one point of view, to show its connexion with the resolution from the Senate. We are called upon, said he, to state that it was the intention of Mr. Jackson to excite dissensions among the people through false and fallacious disguises. In making up this argument, as I understand it has been argued, it is stated that one of these disguises was, that he had stated to the people of the United States that he had commenced an important negotiation, when, in fact, he was only authorized to propose certain conditions, the acceptance of one of which would be disgraceful to this country. It is almost impossible to enter into an examination of those disguises without taking up that condition and the circumstances under which it was proposed; for, unquestionably, it is a false disguise if a proposition be stated to have been originally proposed by our Minister in London, which he never even assented to. The House ought not, however, to refuse the production of any paper thought necessary by any member in making up his opinion on matters before the House.

Mr. BACON said that he now understood the specific ground on which the motion was introduced to be abandoned, and the paper called for was admitted not to be necessary to the consideration of the resolution from the Senate. The gentleman from New York (Mr. GARDENIER) had

DECEMBER, 1809.

Relations with Great Britain.

H. OF R.

supported it, on the ground that the paper might be necessary for the justification of the Administration. How? No imputation had been alleged against the British Government by the Executive for making this third proposition; it had been simply rejected, as all admitted, on correct grounds. So far from being made the ground of any imputation against that Government, it was expressly imputed to a mistake of Mr. Canning, not to a wilful misinterpretation, but a misapprehension of what had passed between him and Mr. Pinkney. The sole imputation of blame made on Mr. Canning, is not that he originally proposed it, because he might, in so doing, have acted under a mistake, but that it was urged by Mr. Canning after the refusal by this Government to admit it. Neither could Mr. B. see how the paper to be called for was necessary for the justification of Mr. Canning; for no charge had been brought against him on account of it. No supposition had ever been uttered, in or out of the House, that our Minister had ever been authorized to assent to such a proposition; and, if he had done so, the affair concerned only him. Mr. B. said he could not see how the Administration were concerned in it. Whether the nation was to go to war, or not, would not at all depend on that point. He saw no reason to call for the paper. It might be necessary, as the gentleman from New York (Mr. GARDENIER) supposed, to stop the cavilings of captious federalists. The gentleman, said Mr. B., is better acquainted with gentlemen of that description than I am, and therefore, no doubt, has characterized them correctly. It is not for me to say whether he has mistaken the character of his friends. But, on that account, I see no reason to vote for the motion.

Mr. KEY said, the gentleman from Tennessee (Mr. RHEA) had seemed to suppose, because Mr. Canning's letter of the 27th of May was subsequent to the arrangement, that the communication of the instructions to Mr. Pinkney could have no bearing on the questions to be discussed. Mr. K. said, that he did not understand this to have been the first communication of the instructions, for Mr. Canning writes to Mr. Pinkney on the 27th May: "Having had the honor to read to you *in extenso* the instructions," &c. Mr. K. said, it was because the time when he first read them was not stated, that he wished to see Mr. Pinkney's letter on the subject. That gentleman, if he correctly recollected the nature of the communications from him, usually detailed the periods of time and substance of conversations in a clear and luminous manner. Not to travel over ground occupied by other gentlemen, Mr. K. said, he justified the call on the ground that the time at which the instructions given to Mr. Erskine were first read to Mr. P. was uncertain.

Mr. GARDENIER said, he had just heard from a gentleman from Virginia, (Mr. EPPES,) very much to his surprise, that the proposition of this third condition was a matter of very trifling importance. Perhaps, Mr. G. said, he was fated to differ with gentlemen on points which concerned the honor of the country. He thought it extremely

important that it should be ascertained how this proposition came to be made by the British Government; if without any previous indication on the part of the United States of a disposition to submit to it. He should, if such were the case, call it little short of an insulting proposition, as the making it necessarily implied a belief of the want of power in this Government to carry into execution its own views—an imputation to which he could never submit. But, said Mr. G., the President of the United States, in his Message to Congress, has thought fit, possessing no doubt a view of the whole ground, (to which I do not pretend but shall strive to attain,) in the face of the world to charge the British Government with perfidy in refusing to ratify an agreement entered into by his Minister having competent power to make it—a charge which, if not repelled, will disgrace the British Government for ever—for, what worse imputation can you attach to a Government than the deliberate violation of a compact entered into? None. It is therefore important, after issuing a State paper of a higher tone than anything since the Revolution, to that union which it ought to be the duty of Government to establish among the people, if any serious consequences are to result, to show that we are in the right. The British Government alleges, as I understand, that its Minister here did not follow his instructions, but absolutely violated them, inasmuch as, among other things, he did not get the assent of the American Government to stipulations which were to leave the British Government at liberty to capture our vessels engaged in a certain trade. Now, inasmuch as he was instructed to make this a part of his arrangement, and failed to do so, therefore, say the British Government, we are not bound by it. On the part of this Government it appears to have been contended that a Minister Resident was possessed of sufficient powers to conclude such an arrangement. That question, Mr. G. said, he would not enter into now. But, if it were true that the proposal that British armed vessels should capture American vessels engaged in a trade prohibited by American laws, so repugnant to every idea of propriety, did in fact come, as Mr. Canning says, first from America; and if, after it was made a condition by the British Government, the Government of the United States refused to accede to it, after having so first proposed it, there was a want of good faith on the part of this Government. If that fact should be ascertained, the British Government would be justified in refusing to sanction the arrangement. Mr. G. wished to be understood not as saying that such was the case, but merely stating the question, on both sides. On this account, however, he considered it extremely important to ascertain how this proposition first received existence. He wished to know what Mr. Pinkney did say, and how Mr. Canning came to misunderstand him, if, in fact, he had misunderstood him. And, for this purpose, he wanted such papers as might be embraced by the motion before the House.

The question was now taken on Mr. GOLD'S

motion, by yeas and nays, and carried—yeas 85, nays 36 as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., Burwell Bassett, William W. Bibb, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Matthew Clay, Howell Cobb, James Cochran, Henry Crist, Samuel W. Dana, John Davenport, junior, John Dawson, William Ely, James Emott, John W. Eppes, Barent Gardenier, Gideon Gardner, Thomas Gholson, jr., Charles Goldsborough, Peterson Goodwyn, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Daniel Heister, Benjamin Howard, Jonathan H. Hubbard, Richard Jackson, jun., William Kennedy, Philip B. Key, Joseph Jewis, jun., Edward St. Loe Livermore, Robert Le Roy Livingston, John Love, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Pleasant M. Miller, William Milnor, John Montgomery, Thomas Moore, Jonathan O. Moseley, Roger Nelson, Joseph Pearson, Timothy Pitkin, jr., Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Rea of Pennsylvania, Erastus Root, John Ross, Thomas Sammons, Adam Seybert, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Uri Tracy, George M. Troup, Charles Turner, junior, Jabez Upham, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—William Anderson, Ezekiel Bacon, David Bard, Adam Boyd, John Brown, Robert Brown, William Butler, Joseph Calhoun, John Clopton, James Cox, William Crawford, Richard Cutts, Joseph Desha, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, William Helms, Jacob Hufty, Richard M. Johnson, Thomas Kenan, Aaron Lyle, Samuel McKee, Nicholas R. Moore, Jeremiah Morrow, Thomas Newbold, John Porter, John Rhea of Tennessee, Matthias Richards, John Roane, Ebenezer Sage, John Smilie, George Smith, Robert Weakley, Robert Whitehill, and Robert Witherspoon.

Mr. GOLD and Mr. KEY were appointed a committee to present the said resolution to the President of the United States.

REPEALING DRAWBACKS, &c.

Mr. VAN HORN called for the consideration of the resolutions laid on the table by him a few days ago relative to repealing drawbacks, &c., with a view of having them referred to a committee.

After some conversation between Messrs. DANA, QUINCY, MACON, and VAN HORN, as to the proper committee to which they should be referred, Mr. VAN HORN agreed that they should go to the Committee of Commerce and Manufactures.

Mr. RHEA objected to the reference of a part of these resolutions, on the ground of the total inexpediency of the propositions contained in them, and assigned his reasons for that opinion at some length. He said that the subject of them properly belonged to the treaty-making power, and the legislating on them at all would take a powerful instrument out of its hands. They went to surrender those rights for which the United

States had long been striving; and, if passed into laws, when they should be again contended for, our Minister would be told, here is a law of your own Congress formally surrendering that for which you contend.

Mr. VAN HORN said in reply that it was well known to all that we never should, during the existence of a war in Europe, be able to obtain an equitable treaty from either of the belligerent Powers. As to the surrender spoken of, it was not a surrender at all, but a refusal to exercise certain privileges because injurious to us. If our merchants, instead of employing their vessels in the carrying trade, the source of almost all our difficulties, were compelled to employ them in the carriage of our domestic produce, it might be beneficial to the country. How happened it, he asked, that our merchants were growing rich and our planters poor?—For such was the fact. The system of commerce producing such consequences must be erroneous, and therefore he had proposed to inquire into the propriety of a change.

Mr. RHEA, of Tennessee, rebutted the idea held out by Mr. VAN HORN that his resolutions would afford a remedy to the depressed state of the planters. Instead of enriching them, his resolutions, by doing away all foreign competition in the market for their produce, would make them still poorer.

A motion was made by Mr. RHEA to postpone the consideration of the subject until to-morrow.—**Negatived.**

Mr. MACON observed that a reference of the resolutions by no means committed any gentleman to vote for them.

Mr. RHEA, of Tennessee, then required a separate question to be taken on each resolution.

And the question being so taken, three of the resolutions were referred and two rejected.

Those referred relate to a prohibition of the exportation of domestic produce in any other vessels than those owned and wholly navigated by citizens of the United States; to laying an additional discriminating duty in favor of vessels of that description, and to modifying or repealing the laws allowing drawback.

Those rejected relate to prohibiting exportation from our ports of foreign goods in American vessels; and to prohibiting American vessels from carrying articles of foreign growth from one foreign port to another.

THURSDAY, December 14.

Mr. SOUTHARD, from the Committee of Revision and Unfinished Business, made a report, in part, on such matters of business as were depending and undetermined upon at the close of last session of Congress; which was read, and laid on the table.

Mr. JOHNSON, from the Committee of Claims, presented a bill for the relief of William and Elias Rector; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. NELSON, from the committee appointed on the eighth instant, presented a bill for the relief of

DECEMBER, 1809.

Yazoo Land Claims.

H. OF R.

the infirm, disabled, and superannuated officers and soldiers of the late and of the present Army of the United States; which was twice read and committed to a Committee of the Whole to-morrow.

Mr. McKim, after a few observations, in which he declared the object of his motion to be to countervail the restrictions imposed by foreign nations on our commerce, laid upon the table the following resolutions:

1. *Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of prohibiting, by law, the importation, in foreign ships or vessels, of all goods, wares, and merchandise, not of the growth, produce, or manufacture, of the country to which the ship belongs, excepting in the ships of such countries as, by permanent regulation, permit our ships and vessels, as freely and beneficially as their own, to import into their ports and territories the produce and manufactures of foreign countries.

2. *Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of laying an additional import duty on distilled spirits imported in foreign ships or vessels, from ports or countries in which American vessels are not permitted, by permanent regulation, to a fair participation in such trade; and that the committee have leave to report on these resolutions by bill, or otherwise.

The resolutions were read, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the bill to revive an act, entitled "An act for the relief of the refugees from the British Provinces of Canada and Nova Scotia, and for other purposes." An amendment was agreed to by the House and the bill ordered to be engrossed, and read the third time to-morrow.

YAZOO LAND CLAIMS.

Mr. BACON presented a memorial of the Directors of the New England Land Company, citizens of the State of Massachusetts, praying that measures may be speedily adopted by Congress for the examination and final adjustment of their claims to a portion of the lands lying within the Mississippi Territory, and ceded by the State of Georgia to the United States, on the twenty-fourth of April, one thousand eight hundred and two.

The said petition was read: When, a motion was made by Mr. BACON, to refer the same to the Committee of Claims.

Mr. TROUP moved to reject the petition. He said that the virtue of the House had induced it to reject a petition of the same tenor heretofore, and under circumstances, too, which would have rendered an attention to it more excusable than at present—and why? Because the nation was at peace and had a full Treasury. And what, said he, is our situation at present? The country is on the eve of a war, and has an exhausted Treasury. And what is the amount of the claim made upon you? I know not what is expected of you at this time; but four years ago ten millions of dollars was the estimated amount of it. And are you prepared to grant to these men a donation (for it can be considered in no other light) of even three millions of dollars? If you have

three millions of surplus money in the Treasury, throw it into the ocean, give it to the beggar who besieges the door of the Capitol, to the old Revolutionary soldiers who daily ask for bread—or put it in your own pockets as a reward for your public services; but in the name of justice do not think of putting your hand into the Treasury to pay the hire and wages of corruption. As much as I hate in my heart this corruption, and as much as I have viewed with horror its triumph over the virtue of my country, I have heretofore been content to see this petition lie on the table. But now the case is altered; the time is proper, and I hope that the virtue and understanding of the House will induce it to agree to its immediate rejection.

Mr. BACON said he was not prepared, nor was it his wish, to reply to the eloquent declamation and pointed denunciation pronounced by the gentleman from Georgia. He would only say that the petition was preferred by a respectable portion of citizens, and ought to be referred. It embraced the claim of not only a respectable but of a numerous portion of the people of the State which he represented, although he had not himself a constituent who was interested to the amount of a cent in the claim. It was a subject of as great magnitude as any ever presented to the House, and in his opinion extremely interesting to the internal policy and interests of this country. It was a claim sanctioned by high authority—by persons of the most respectable standing in the Government. Should a claim of this amount, which had more than once attracted the notice of the Legislature of Massachusetts, not be referred? In this House there were not less than forty or fifty members to whom the subject was new, and who ought to be made acquainted with it before they decided on it. Were they sufficiently versed in it to enable them to determine at once that this claim was so unjust that they would immediately shut the door on it? It appeared to him that the House could not be prepared to adopt the motion of the gentleman from Georgia, whose sensibilities were so highly excited.

THE SPEAKER decided that the motion to *refer* a petition had precedence of the motion to *reject* it, because it had been first made.

Mr. DANA observed that from what he had heard of the petition, it related to the same subject as a report made to Congress by certain Commissioners appointed to investigate it, viz: James Madison, Albert Gallatin, and Levi Lincoln, the then Secretary of State, the Secretary of the Treasury, and the Attorney General. These persons had so far respected the right of the claimants, and the interest of the United States as connected with it, as to recommend a compromise. If the gentleman from Georgia had spoken of things of his own knowledge, and not things which depended upon proof of which different opinions might be formed by different persons, Mr. D. said he should place implicit confidence in his opinion. But when doubts did exist in relation to the justice of the claim, when a

respectable board of Commissioners had reported in its favor, were the House ready to say that this petition should be driven from them as infamous? Were they at liberty thus to refuse it a reference, or reject it upon the denunciation of the delegation of any State, however respectable the State or its delegation? Mr. D. said he did not feel disposed to do so, and had rather that the petition should take the usual course.

Mr. STANFORD said that the report of the Commissioners alluded to by the gentleman last up, had declared that in justice no claim could be set up by the petitioners; but it recommended a compromise on the ground of policy. He hoped the House would not agree to refer this petition, when they had peremptorily rejected a bill from the Senate, heretofore, going to carry into effect their prayer. He called for the yeas and nays on the question of reference.

Mr. TROUP said he was aware how improper it was on the question of reference to enter into a consideration of the merits of the claim. But one word he must be permitted to say as to the respectable characters who had recommended an adjustment. How, in what way, had they recommended it? In the same breath in which they had stated that it would be advisable to compromise the claim, they had said that the Yazoo claimants had not a shadow of title, but had advised Congress to get rid of them as a formidable faction. In the same report in which the Commissioners had advised Congress to pay them and send them off, they had also declared that four fifths of the Legislature whose act was the foundation of this claim, were bribed and corrupted.

Mr. POINDEXTER said that the petitioners prayed for a compromise of their claim, not for money, but for a portion of the land to which they declare themselves to be entitled. He could, therefore, see no propriety in the petition being referred to the Committee of Claims; it should rather be referred to the Committee of Public Lands. If referred to that committee they would examine in what situation the claim was placed by the articles of agreement and cession between the United States and Georgia. According to these articles, after one year from the ratification of them no act could be passed by Congress to cede any part or portion of the land to any individuals or companies whatever; and if such cession should be made, by the same articles the land so ceded would revert to the State of Georgia. If the House then were to cede land to the petitioners as prayed, it would immediately become the property of the State of Georgia; the cession would confer no title, because it would be in contravention of the very agreement on which they had proceeded to legislate. He submitted to the House the propriety of referring a subject on which the House could not act without impairing a solemn compact. It would be impossible, without nullifying the articles of agreement, to give them any portion of the land thus ceded by Georgia. Either the articles of cession must be repealed, or the prayer of the memorialists

must be rejected. He was not inclined to say much about the corruption practised in obtaining the act of Georgia of 1795 for a cession of forty millions of acres, but he was generally indisposed to do anything in favor of the petitioners, because he believed the grant had originated in fraud, and the fraud had adhered to it through all its various ramifications.

Mr. BACON remarked that it was true that the articles of cession provided that after the term of one year no cession of any part of the land should be made by the United States. In 1803, however, within a year after that time, an act had been passed regulating grants of land south of the State of Tennessee, in which so much of five millions of acres as may be necessary to satisfy claims against the land is reserved for that purpose. This section of the law obviously had in view the claims of the petitioners. He presumed the gentleman from Mississippi Territory had not adverted to it. With respect to the mode of reference, Mr. B. said it was true that the petitioners asserted a claim to land, but they expressed a desire for a compromise in any way. It was not for land that they specifically asked, but for such compensation as Congress should think fit to give them. He should be glad to see to what conclusion any committee, sitting coolly down in their chamber to investigate it, would come on this subject. Instead of fervid eloquence and glowing declamation, he should like to see a cool and deliberate investigation of the claim.

Mr. LIVERMORE said it was true, as had been observed, that this was a large claim, but its magnitude did not render it the less just. If the facts stated in the petition could be substantiated, he appealed to every gentleman who had ever entertained an idea of justice whether the petitioners were not entitled to redress. If they could not be proved, the effect of it would be very different; and, therefore, to ascertain the correctness of the statement, an inquiry ought to be made. As to the assertion that fraud attached to the claim through all its ramifications, Mr. L. said that he was acquainted with some of the petitioners, and knew that there were no men on the face of the globe who would more despise the idea of fraud than those petitioners—the gentleman himself could not be less disposed to sanction it than they would. These persons had purchased the land, for which they had paid their money, and been ruined by it—men who had been rich were now beggared by it. It would be denying justice to refuse a reference of the petition. If gentlemen believed facts to be against the petitioners, could they not trust themselves to an examination of them? The first question would be, are they entitled to claim anything? If so, would the House do them justice or not? It was the greatest injustice to stop a claim, alleged to be just, at the very threshold of the House.

Mr. TROUP asked, if, as had been stated, he had treated this subject in a declamatory style, in what mode could it be treated? He put it to the

DECEMBER, 1809.

Yazoo Land Claims.

H. OF R.

gentleman's liberality—he put it to the House and to the world—if it was not more becoming to resist with vehemence the introduction of corruption, than to support it with his deliberate understanding? What, sir, said Mr. T., would you say to a murderer who should rush into this Hall with his knife yet reeking with the blood of a fellow man? Would you stop to reason with him on the turpitude of the act? I have no objection to reason upon it, if the House think proper to send it to a committee; and if they do, if I do not prove it, as called by the gentleman from Mississippi, one tissue of corruption in all its ramifications, I hope the House will never again give me credence. I will prove not only that the Legislature who made the grant were corrupted, but that these people who pretend ignorance were parties to it—*participes criminis*—and ought to be treated as the original actors in it. Mr. T. then made some observations with a view to show that a question of rejection ought to take the place of a question of reference, because if the House refused to refer it to one committee, it would be moved to refer it to another, and there would be no end of the business.

Mr. SHEFFEY wished to know if the motion for reference could not be divided, so as to take a question first generally on its reference, and afterwards decide to what committee it should go?

The SPEAKER conceived not.

Mr. PITKIN remarked that he never knew a petition to be rejected on its first reading. A motion might be made tantamount to a rejection, but the rejection of a petition, unless its language was indecorous, was unprecedented. The right of petition was one secured to the people of the United States by the Constitution; and so long as petitions were couched in decorous language, he contended that it was not in the power of the House to reject them. The Parliamentary practice he understood to be to examine, in doubtful cases, whether the language of a petition was decorous, and even to appoint a committee for that purpose. If found to be consistent with decorum, a motion could not be made to reject a petition on its presentation. He thought it incorrect at this time to go into the merits of the petition, which he wished to take the usual course of reference to a committee, whose report would prepare the subject for discussion.

Mr. ROSS said, being totally unacquainted with the subject but through the medium of newspapers, from what had been said on both sides on the present occasion, he thought it important that the petition should be referred. If it were true, as alleged by those opposed to the reference, that gross and palpable fraud had been committed in relation to the claim set up by the petitioners, he asked whether it was not all important to the interests of the United States that it should now be decided on, when there were so many living witnesses of the fact? Was it not important that a report should now be made, spreading to the public view the gross and palpable fraud which attached to this whole transaction? If, on the contrary, the transaction had been fair

and *bona fide*, and the persons implicated had been injured, it was but fair, and right, and reasonable that justice should be dealt to them. For himself he was not disposed to stifle a petition in the first outset, by rejecting it, when the terms of it were decorous to the House. He could know nothing further on this subject than had been suggested by different members of the House. It could not be expected that gentlemen who were new members of the House could consent to refuse to give to this petition the usual course.

Mr. BISS said he should not have said anything on this question, because he cared very little whether the petition was referred or not, for he was very sensible that there was a large majority of the House against complying with the prayer contained in it, but for the remark of the gentleman last up, who seemed not well to have understood the history of this business. It had been before Congress almost every session for five or six years, and one session a bill had been received from the Senate in favor of the claimants; the subject was then investigated maturely, and, after a full discussion, the bill had been rejected on its first reading.

Mr. MAGON said that a few years ago it had been attempted to establish the practice of refusing to refer all petitions once decided against except new testimony had been produced relative to them. This appeared to be reasonable; for if the House were called upon to decide on petitions year after year on the same testimony, there would be no end of them. He quoted the journals to show that this had been the case in some instances. Mr. M. said if all the time of the House that had been occupied on this subject were put together, it would make one of the longest sessions that had ever taken place under the Government. It is a standing dish. The petitioners will not believe you when you say *no* to them. I believe I am the last man in the House who would throw the smallest shade of doubt on the right of petition. But, sir, after petition and petition; after you have said *no* and *no* and *no* again, is there to be no end to it? I do not understand the argument used on this question, that the petitioners are respectable and numerous. Every man petitioning here has the same right to have his petition attended to; no matter what be his standing in life, if right be on his side, it ought to be done to him. If the President were to come here with a petition, he would have no more claim to attention than if he was a beggar at our door. Their rights are perfectly equal. Sir, if there be merit in the claim, there is no occasion to tell us of the merits of the petitioners; if there be not, their merit will not avail it. I did not attend to the reading of this petition, sir, but I should not be astonished if it had told you that the Senate had once passed a bill on the subject. I have been long enough in this body to see the possibility of getting any claim through the National Legislature by a step at a time; for at last every attention heretofore given to it passes as a good argument in its favor. I believe, with the gentleman from Georgia, that

H. OF R.

Yazoo Land Claims.

DECEMBER, 1809.

there is scarcely a man in the nation who does not know that the transaction originated in fraud. I recollect a gentleman from Vermont told us here that the fraud was as well known in Vermont as in Georgia. Why, sir, the newspapers rung with it. Upon the very spot where the scene took place, what was done? Almost every man in the Legislature who was concerned in it was hurled from his seat, and what was called the rescinding Legislature followed. That cannot be good which originated in fraud, in sin, in iniquity—in the most flagrant political iniquity ever known. Nothing we can do can make it righteous. Gentlemen may talk as they please of declamation, but the most eloquent speech I ever heard in my life was on this subject from a gentleman from Virginia, (Mr. RANDOLPH,) which then put an end to all opposition on the subject. I could almost wish to postpone this question to hear the gentleman again speak on it—I believe it was the most eloquent speech ever made within the walls of this House. Mr. M. said the testimony on this subject had been printed over and over again. He recollected it had been stated that, on examination of the Clerk's library, the whole of the testimony on this subject had been torn out of the volume of printed documents of the year in which it had been laid before the House. Sir, to keep this petition out of these walls, I would be willing to vote to give the State of Georgia a sum equal to what we have given for the land, to take it back. We made a bad bargain with her; I thought so then, and I think so still.

At one time, sir, we are told that these people can sue for this land and recover it. Let them do so. I for one will make no compromise with them. Can any man believe they would be willing to take the fragments which are not yet taken up of five millions of acres, if they had a legal and just claim to the whole? It does not tell. If I believed that I had a just claim to the whole Indiana Territory, and that I could recover it, do you believe, sir, that I would take the fragments of five millions of acres of which the best has been picked out? No, sir; I would have all or none. This claim has never come up at any time at which the merits of it have not been discussed. If no vote had ever been taken on it, I would vote to-day to refer it. There ought to be a time to begin and a time to end, and this bill has had both; and, sir, it is a little remarkable that at the time a motion was made to reject it some years ago, we were discussing the state of our foreign relations. Such is now our situation, and up comes this claim again. If it had never been referred, I would now vote for it; but it has already been once decided, and I would not refer it again. It is due as well to the petitioners as to ourselves to settle this question, to refuse to pay attention to their petition.

Mr. DANA said he felt the impropriety of going into the discussion of the merits of the claim on a motion to refer it; but he rose simply to state to the House what was contained in the report of the Commissioners on the subject already allu-

ded to. [Mr. D. read a part of the report.] In doing this he did not enter into the merits of the claim, but was merely desirous to show that there were persons high in public confidence who really had thought it so worthy of consideration that they had recommended a compromise; and it would not be easily admitted that this was so notorious a fraud on the part of the applicants that they should be branded with infamy, and yet that these gentlemen should have been willing to make a compromise with this iniquity. He did not feel himself at liberty to suppose that any public officer would propose a compromise of a claim so utterly improper that this House ought not even to listen to it.

Mr. PITKIN observed on Mr. MACON's idea of refusing to refer petitions once acted on by the House, that he did not apprehend that the petition before the House was one with which this course ought to be taken. It would be unnecessary to say that a report had once been made in favor of it, and although not assented to by the House, there had very often been nearly an equal division on the subject. Instances would be found on the Journals where petitions had been decided against, and yet which had been repeatedly referred. He hoped the usual mode of proceeding would be adopted in relation to this petition. He did not believe, whatever fraud might have attached to the original purchasers, that it could attach to those who purchased subsequently. The gentleman from Georgia had said that he could prove the contrary. Let the question then be examined, and if the gentleman had any proof let it be produced. Mr. P. said that for his part he had never seen any such testimony. He had been acquainted in substance with the transaction at the time the Georgia land was sold, and he had never heard that the petitioners were connected with the fraud. If so, let it be proved before a committee, and let the fact be reported to the House. It was certainly a question of great moment as it respected the United States, and ought to be examined.

Mr. LIVERMORE thought that the honorable gentleman from Georgia had furnished a strong argument in favor of a reference of the petition. If he had understood him correctly, the gentleman had undertaken to say that he could prove that these petitioners were *participes criminis* in this fraud practised concerning the State of Georgia. If that were the case, and the gentleman was prepared to make good the assertion, it was surely a reason why the petitioners should have a fair hearing. He said that a charge of serious import had been exhibited to the world, that a number of gentlemen petitioners, asking for justice, had been so guilty of fraudulent practices that their petition should not even be referred. He submitted it to the House, whether it would not be cruel to let this go without inquiry. The committee to whom it should be referred would report facts; for, Mr. L. said, he had great doubt, to say no more of it, whether there were good grounds for this assertion; he said this from a knowledge of the characters who petitioned. He

DECEMBER, 1809.

Yazoo Land Claims.

H. OF R.

did not contend, as seemed to be supposed by a gentleman from North Carolina, (Mr. Macon,) that one man had a better right to have his petition heard than another, because all citizens had equal rights. The respectability of character of the petitioners had not been mentioned as a reason why their prayer should prevail, but to rebut the assertion that they were profligate characters, guilty of such fraudulent transactions as to justify Congress in refusing them a hearing. He should wish them only to be treated as other petitioners, to hear everything for or against their claim. It was no argument, he said, against their claim, that we were on the eve of a war; he hoped that calamity was far from us; and if it were not, it could be no argument against a just claim. He hoped it would be connected with no political question, but stand on its own merits. What argument either was it against their claim to five millions, or to a less number of acres of land, that they were entitled to a much greater portion? They must take what they could get, when it was not in their power to get the whole to which they were entitled. Upon the whole, he could not conceive why an investigation should be denied.

Mr. UPHAM said a few words, not distinctly heard by the reporter, in favor of a reference. He urged as a reason why it merited that attention, that it had heretofore received the sanction of Commissioners appointed to inquire into it, of one branch of the National Legislature, and of a committee of the House.

Mr. GARDENIER moved to adjourn.—Negatived. Ayes 18.

Mr. STANFORD quoted a Message of GEORGE WASHINGTON to Congress, soon after the passage of the acts of the Legislature of Georgia making this grant, in which he communicated these acts to Congress, and recommended them to their attention. If alarm had been excited in the mind of WASHINGTON by the passage of these acts, so far as to induce him to communicate them to Congress within fifteen or twenty days after their passage, it was conclusive evidence that the suspicious nature of their transaction could not have been unknown to the petitioners at the time they purchased the claim.

The question of reference was now taken, and decided—yeas 60, nays 56, as follows:

YEAS—William Anderson, Ezekiel Bacon, Daniel Blaisdell, Adam Boyd, Jas. Breckenridge, John Campbell, J. C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, Richard Cutts, Samuel W. Dana, John Davenport, jr., William Ely, Jas. Emott, Wm. Findley, Jonathan Fisk, Barzillai Gan-
nett, Gideon Gardner, Charles Goldsborough, Thos. R. Gold, Wm. Hale, Nathaniel A. Haven, Daniel Heister, William Helms, Benjamin Howard, Jonathan H. Hubbard, Richard Jackson, junior, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Vincent Matthews, Samuel McKee, Pleasant M. Miller, William Milnor, Jeremiah Morrow, Jonathan O. Mosely, Thomas Newbold, Timothy Pitkin, junior, Peter B. Porter, Elisha R. Potter, Josiah Quincy, Erastus Root, John Ross, Daniel Sheffey, Henry

Southard, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Benjamin Tallmadge, John Thompson, Uri Tracy, Charles Turner, junior, Jabez Upham, Killian K. Van Rensselaer, Robert Weakley, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., David Bard, Burwell Bassett, Wm. W. Bibb, John Brown, Robert Brown, William Butler, Joseph Calhoun, Matthew Clay, Howell Cobb, James Cochran, James Cox, William Crawford, Henry Crist, John Dawson, Joseph Desha, John W. Eppes, Meshack Franklin, Barent Gardener, Thomas Gholson, jr., Peterson Goodwyn, Edwin Gray, Jacob Hufty, Thomas Kenan, William Kennedy, Aaron Lyle, Nathaniel Macon, Robert Marion, Archibald McBryde, Alexander McKim, John Montgomery, Nicholas R. Moore, Thomas Moore, Roger Nelson, Thomas Newton, John Nicholson, Joseph Pearson, John Rea of Pennsylvania, Matthias Richards, John Roane, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Dennis Smelt, John Smilie, George Smith, John Smith, Samuel Smith, Richard Stanford, John Stanley, John Taylor, George M. Troup, Archibald Van Horn, Robert Whitehill, and Robert Witherspoon.

FRIDAY, December 15.

On motion of Mr. SOUTHARD,
Resolved, That a committee be appointed to inquire into the propriety of passing a law to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses; and that the committee have leave to report by bill or otherwise.

Mr. SOUTHARD, Mr. CLAY, Mr. FINDLEY, Mr. KEY, and Mr. STURGES, were appointed a committee, pursuant to the said resolution.

On motion of Mr. MONTGOMERY,
Ordered, That the letter and report of the Commissioners under the act for the relief of the refugees from Canada and Nova Scotia, presented on the thirteenth of February, one thousand eight hundred and five, be referred to the Committee on the Public Lands.

An engrossed bill to revive an act, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia, and for other purposes," was read the third time, and passed.

Mr. GOLDSBOROUGH presented a petition of Levin Jones, of the City of Baltimore, owner and master of the schooner Wolf, stating that, in October last, at Charleston, South Carolina, he took on board the said schooner several French families and their slaves, who had fled from the island of Cuba, for the purpose of carrying them to Norfolk, and that upon his arrival at that place, his vessel was seized for a violation of the act prohibiting the importation of slaves, which required a manifest to be made at Charleston of the said slaves, of the existence of which act, the petitioner states, he was ignorant, and praying that his said vessel may be released, and that he may be exonerated from all penalties incurred by

H. OF R.

Batture at New Orleans.

DECEMBER, 1809.

the violation of the law aforesaid.—Referred to the Committee of Commerce and Manufactures.

YAZOO CLAIM.

Mr. TROUP moved a resolution for printing, for the use of the members of the House, in consequence of what took place yesterday, the usual number of copies of the act of Georgia, passed in 1796, commonly called the rescinding act; of the constitution of Georgia of 1789; of the constitution of the same State of 1798; of the report of the commissioners appointed in pursuance of an act for the amicable settlement of limits within the State of Georgia, &c., made on the 29th of November, 1804; and of the articles of settlement and agreement between the United States and Georgia, of April, 1802. He said he had included in the motion the constitution of Georgia of 1789, because it would show that the Legislature of 1795 had no right to make the grant; and the Constitution of 1798, because in it the convention had, in the most solemn manner, ratified the rescinding act.

Mr. T. made some observations as to his motives for making this motion, in too low a tone of voice to be distinctly understood by the reporter.

Mr. BACON said he was not opposed to this motion, but in favor of it; but there were, probably, some other papers which it might be proper to connect with these. He asked the favor of the gentleman to let it lie on the table, until he could ascertain what papers to add to them.

Mr. TROUP consenting, the motion was ordered to lie on the table.

BATTURE AT NEW ORLEANS.

On motion of Mr. SHEFFEY, the House took up for consideration the resolutions on the subject of the batture, laid on the table by him a few days ago.

Mr. S. laid on the table several certificates and other papers relating to this subject.

Mr. W. ALSTON moved to refer the resolutions of the Committee of Public Lands, to whom had already been referred a memorial of the Corporation of New Orleans on the same subject, and a resolution for vesting in them the right of the United States to the batture.

This resolution was negatived—52 to 49.

The resolutions of Mr. SHEFFEY were then ordered to lie on the table, on motion of Mr. NELSON, with a view to make way for the following motion:

Mr. NELSON moved to discharge the Committee of Public Lands from the further consideration of the papers on this subject referred to them, with an intention to refer them, together with Mr. SHEFFEY's resolutions, to a Committee of the Whole House.

This motion finally prevailed, 57 to 51; but, from the lateness of the hour, (4 o'clock,) no question was taken on the reference to a Committee of the Whole.

On these several questions, a diffuse debate of more than three hours arose; in which Messrs. ALSTON, SMILIE, POYDRAS, MACON, EPPES, and

GHOLSON, advocated a reference to a select committee, for the purpose of preparing a report of the facts on the case, and reporting their opinion thereon; and Messrs. SHEFFEY, NELSON, ROSS, GARDENIER, and KEY, supported the proposition to send the papers to a Committee of the Whole in the first instance, and thus to bring them more immediately before the House.

[The arguments in favor of a reference to the Committee of Public Lands, or to a select committee, were generally, that it was improper, on the ground of the equal rights of all petitioners, to give to the claim of Edward Livingston a direction different from that given to other claims for land now held by the United States; that petitions of persons appealing from the decision of the Commissioners appointed by the United States to try titles to land, had always taken that course; that, yesterday, the petition of the Yazoo claimants, involving a claim of at least equal magnitude with that now under consideration, had been referred to a select committee to inquire into it, and no other reference had ever been asked of it; that the claimant could have nothing to fear from the report of a select committee, as, on that report, there would be ample scope for discussion; that the circumstance that almost every one who spoke on the subject differed as to facts from the gentleman who preceded him, was evidence of the propriety of having a report of facts made which could be depended on; that, although the House were not asked by the petitioner to try his title, but merely to designate a proper tribunal to do it, yet they were asked, in the meanwhile, to reinstate him in possession of the land from which he had been ousted, and that they could not consistently do this until they were convinced by facts that the petitioner had a color of title, and was not an unwarranted intruder on the public land.]

On the other hand, it was contended, in favor of a reference to a Committee of the Whole, that this was not a case which could be identified with ordinary claims for public lands, which were generally referred to a committee of that name, for it was a case in which it had become a question whether the lands claimed were public lands or not; that the propriety of passing Mr. SHEFFEY's resolutions depended materially on the construction of a statute and on a Constitutional question, on which topics it was not peculiarly the province of the Committee of Public Lands to decide; that this was not a case in which the House were asked to decide on a claim, but to appoint a tribunal for the purpose of deciding it, and it was therefore unnecessary for them to have a report of a committee minutely stating facts and investigating the legality of the title; that it was sufficient to induce the House to establish some tribunal to try the title, to know that the petitioner had once been in possession of the property claimed, and therefore had a color of title; and that the propriety of reinstating him in possession of the land could nowhere with more propriety be first discussed than in Committee of the Whole, which course, also, would afford a pros-

DECEMBER, 1809.

Mr. Jackson's Circular.

H. OF R.

pect of coming to an earlier decision on the subject of the batture.

In addition to these observations, gentlemen on both sides entered somewhat into a discussion of the relative merits of the titles of the United States and of Edward Livingston, and an examination of the questions of law and fact involved in it.]

In the course of the debate, Mr. KEY said as he could see no possible benefit from referring this subject to a select committee, he should, therefore, oppose the present motion. We do not want, said he, a committee to instruct us in what is proper to be done, nor do we need their assistance in the investigation of facts. All the facts that exist in the case have been collected, stated, and laid before us in a large octavo volume, by the late President, together with the opinions of eminent lawyers and civilians. We have statements by one party, and pamphlets by the other, and the great fear is, lest we become confused by the mass of matter and number of documents.

The case is simply this: that the petitioner, Mr. Livingston, became interested in certain property in the neighborhood of New Orleans, well known by the name of "the batture." The city of New Orleans claimed it, a suit was instituted, and the title determined by the highest tribunal in favor of Mr. Livingston, and subsequent to this judicial decision he was turned out of possession by the Executive of the United States as an intruder and trespasser on public property. I have no intention to censure the motives of the late President in adopting so hasty and harsh a measure, and I am inclined to believe, without intention of wrong, he was advised to this measure under the construction of a statute of the United States which all must admit does not nor never was intended to apply to possession obtained under the decision of United States courts.

That Mr. Livingston has been turned out by Executive authority we all know; we also know, Mr. Speaker, that redress cannot be had against the United States, who have done the injury. There is a shield of inviolability thrown around them which prevents redress for the most oppressive injuries. In two words, sir, the United States are *non-suable*.

Applications for relief can only be made to this body, and in the administering of it an important question arises, viz: Shall we investigate the subject and decide it ourselves, or shall we, in the language of the report, appoint a tribunal to decide it, and restore Mr. Livingston, in the meantime, to his possession? I am for the latter course. I am for appointing a tribunal to examine and decide this difficult and interesting point, for I am decidedly of opinion that this body is not capable of forming and coming to a correct decision upon so abstruse and intricate a question.

Mr. Speaker, a body composed of more than one hundred members is, in its nature and construction, little adapted to decide law points, and rights of property. If the collected wisdom of the House was much greater than we even flatter ourselves it possesses, it would not be equal to the

decision of the case. I am, therefore, against the House passing any opinion on the merits of the case. I am against referring the subject back to a committee.

One simple point presents itself to the House. It is this: Will the House authorize this resolution to appoint a tribunal to hear and decide the case, or grant an appeal (which does not now exist) to the Superior Court? The petitioner will be satisfied with this. Justice and honor demand it; and let us not feel power and forget right. In a republican government, the protection and safety of each individual constitutes the mass of public happiness; and, as such a Government exists in the affections of the people, those virtues should be exercised and cherished which tend most to produce these affections. And I ask, Mr. Speaker, what principle is more sacred than justice? What more imperious and obligatory? Let us not, then, be judges in our cause. Let us not oppose an individual because we have the power to do it; and, above all things, Mr. Speaker, let us use no delay. In effect, sir, delay of justice is a denial of it. The individual is sacrificed while the Government deliberates. Let us never forget, sir, that justice, to be well administered, must be speedily administered. I am therefore against the delay of referring this subject to a committee. I am against being judges in our own cause; but I am decidedly for authorizing the tribunal to examine in whom the right to the batture exists—whether in Mr. Livingston, to whom the court has adjudged it, or in the United States, who, in the face of that judgment, have taken possession of it.

There is an application from New Orleans to the United States to have that property ceded to them. I hope this will have no influence in this House. The city of New Orleans has claimed the batture as their own property, but the court having decided against them, in favor of Mr. Livingston, they now say it belongs to the United States, and pray a gift of it. If the property is half as valuable as it is represented, I am for keeping it, if it belongs to us. I am not for purchasing their good will by giving them this property, even if it is ours. But, if it is not ours, it would be criminal to give it. Charity is of divine command, but the charity recommended by Scripture is giving what is our own. If charity consisted in giving away other people's property, few of us would want that grace. Before, then, we can grant the request of New Orleans, we must ascertain whether the batture belongs to us or not. I cannot consent to give Mr. Livingston's property to propitiate them, if it be his, nor to give it if it be ours, until the right is settled and the value ascertained. I hope, Mr. Speaker, we will proceed to act in this case without further delay.

MR. JACKSON'S CIRCULAR.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

According to the request of the House of Representatives, expressed in their resolution of the 11th instant.

H. OF R.

Mr. Jackson's Circular.

DECEMBER, 1809.

I now lay before them a printed "copy of a paper purporting to be a circular letter from Mr. Jackson to the British Consuls in the United States," as received in a gazette at the Department of State; and also a printed paper, received in a letter from our Minister in London, purporting to be a copy of a despatch from Mr. Canning to Mr. Erskine, of the 23d of January last.

JAMES MADISON.

DECEMBER 12, 1809.

[The first paper enclosed was the "Independent American," of November 21, containing a copy of the "Circular." The second was a piece cut out of a London newspaper.]

The circular is as follows:

WASHINGTON, November 13, 1809.

(Circular.)

SIR: I have to inform you, with much regret, that the facts which it has been my duty to state in my official correspondence with Mr. Smith, have been deemed by the President of the United States to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with me as the Minister charged with that negotiation, so interesting to both nations, and on one most material point of which an answer has not even been returned to an official and written overture. One of the facts alluded to has been admitted by the Secretary of State himself, in his letter to me of the 19th October, viz: that the three conditions forming the substance of Mr. Erskine's original instructions were submitted to him by that gentleman; the other, viz: that that instruction is the only one in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, is known to me by the instructions which I have myself received. In stating these facts, and in adhering to them, as my duty imperiously enjoined me to do, in order to repel the frequent charges of ill faith which have been made against His Majesty's Government, I could not imagine that offence would be taken at it by the American Government, as most certainly none could be intended on my part; and this view of the subject has been made known to Mr. Smith. But, as I am informed by him, that no further communication will be received from me, I conceive that I have no alternative left, which is consistent with the King's dignity, but to withdraw altogether from this city, and to wait elsewhere the arrival of His Majesty's commands upon the unlooked-for turn which has thus been given to his affairs in this country. I mean in the interval to make New York the place of my residence, where you will henceforward please to direct your communications to me, as I shall be accompanied by every member of His Majesty's mission.

I am, &c.

F. J. JACKSON.

On motion of Mr. QUINCY, these papers were ordered to be printed—for the motion 59, against it 40.

MONDAY, December 18.

Another member, to wit: from New York, HERMAN KNICKERBACKER, appeared, and took his seat in the House.

The SPEAKER laid before the House a letter from the Secretary, transmitting his report, prepared in obedience to a resolution of the first in-

stant, requesting information touching any settlement, contrary to law, on the public lands in Madison county, Mississippi Territory; which were read, and referred to the committee appointed to inquire into the expediency of allowing the citizens of Madison county, aforesaid, to elect a member to the General Assembly of said Territory.

Mr. POINDEXTER, from the committee appointed on the fourth instant, on the petition of Josiah H. Webb, presented a bill for the relief of Josiah H. Webb; which was read twice, and committed to a Committee of the Whole to-morrow.

On motion of Mr. POTTER,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of extending the benefit of drawback of duties upon exportation on all goods, wares, and merchandise, subject thereto, that may be transported by land from the district of Newport, in Rhode Island, to Boston, in Massachusetts, and from said Boston, to said Newport.

On motion of Mr. HAVEN,

Ordered, That the letter and report of the commissioners under the act for the relief of the refugees from the British Provinces of Canada and Nova Scotia, made on the twenty-first of April, one thousand eight hundred and six, be referred to the Committee on Public Lands.

Mr. FISK, from the committee appointed, on the fourth instant, for the purpose, presented a bill providing for the third census or enumeration of the inhabitants of the United States; which was read twice, and committed to a Committee of the Whole on Monday next.

On motion of Mr. LOVE,

Ordered, That the petition of the Common Council of Alexandria, presented, on the 21st of November, 1808, be referred to the same committee.

On motion of Mr. LOVE,

Ordered, That the petition of sundry inhabitants of the District of Columbia, presented on the 16th of March, 1808, be referred to the Committee for the District of Columbia.

Mr. FINDLEY, from the committee to whom was referred the bill sent from the Senate, entitled "An act to extend certain privileges therein mentioned to Joseph Joshua Dyster," reported the said bill with amendments; which were, with the bill, committed to a Committee of the Whole on Wednesday next.

The House proceeded to consider the resolutions submitted by Mr. SHEFFEX, on the eleventh instant, in relation to the conflicting claims to the batture in the city of New Orleans: Whereupon, the said resolutions, together with the representation of the Mayor, Aldermen, and citizens, and the petition of sundry inhabitants of the said city of New Orleans, presented on the seventh instant, were referred to a Committee of the Whole on Friday next.

Mr. McKIM's propositions, to instruct the Committee of Commerce and Manufactures to inquire into the propriety of passing countervailing commercial regulations, were taken up and agreed to.

DECEMBER, 1809.

Yazoo Land Claim.

H. OF R.

INTRUDERS ON PUBLIC LANDS.

Mr. POINDEXTER observed that a resolution had been laid on the table, some time ago, by a gentleman from Tennessee, (Mr. MILLER,) proposing the repeal of the law authorizing the President of the United States to expel intruders from the public lands. Mr. P. said, that he was averse to the repeal of the law, but thought some parts of it arbitrary and unconstitutional, and therefore wished it modified. Without designating the parts to which he objected, he said the following resolution would show his object in rising at present:

Resolved, That the Committee of Public Lands be instructed to inquire whether any, and, if any, what alterations are necessary to be made in the act, entitled "An act to prohibit settlements being made on the public lands until authorized by law," and that the committee have leave to report by bill or otherwise.

YAZOO CLAIM.

Mr. TROUP called for the consideration of the motion made by him on Friday last for printing, for the use of the House, certain papers relative to the Yazoo claim.

Mr. BACON moved to amend it, so as to include the following papers: the act of the Legislature of Georgia, passed on the 7th day of January, 1795, granting to sundry companies and individuals certain lands therein described; the Message of the President of the United States communicated to this House on the 17th day of February, 1795; an act of Congress, passed the 7th day of April, 1798, for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a government in the Mississippi Territory; and an act supplemental to the last-mentioned act, passed the 10th day of May, 1800; and the report of the Committee of Claims on the memorial of sundry citizens of the State of Massachusetts and others, purchasers under the Georgia and Mississippi Company, made to this House on the 18th day of January, 1805.

Mr. TROUP had no objection to include in his motion all the papers mentioned by the gentleman from Massachusetts but the first. The House could not get at the act there alluded to, because the virtue of the people of Georgia had induced them solemnly to consign it to the flames, and nothing of it remained but its ashes, from which it could not, Phoenix-like, revive. It had been committed to the flames, because it was an unconstitutional act of an unconstitutional Legislature; a Legislature unconstitutional, because corrupted; an act unconstitutional, because resulting from, and originating in, fraud. He asked the House whether they would sanction the corrupt act of the Legislature of Georgia, when, in the most solemn manner, the people of Georgia had consigned it to oblivion? Unless for the purpose of insult to the State of Georgia, the House would not, in any manner, sanction such an act. It would be, in effect, to legislate for the State of Georgia, which this House had no right to do.

Mr. BACON said, that the fraud of the transaction had been alleged against the petition refer-

red last week, as a reason why it should not be considered. It was impossible to get at a correct understanding of the circumstances attending the grant, unless the House had the act in its possession. How would it be made to appear that the Legislature had acted corruptly, except its act, and the names of the members concurring in it, were produced? He knew not how the gentleman would prove the corruption which he had pledged himself to prove without that act. And Mr. B. said he was desirous of affording every convenience to the gentleman in the task he had undertaken. As to the act having been burnt, he said he was much mistaken or he had seen copies of it in the printed documents in the Clerk's library. The House, by ordering it to be printed, would not express any opinion on the validity of the act.

Mr. TROUP observed that as much of the act of 1795 as was necessary for the purpose alluded to by the gentleman from Massachusetts, was recorded in the act of 1796, and so much he had no objection to have printed, as it was a matter of record. As to the names of the corrupt members, they were also on record.

Mr. BACON replied that, as much of the act of 1795 as was necessary for the purpose of the rescinding Legislature had been published in the act of 1796, it was not to be supposed, without imputing to that Legislature any improper motive, that any more of it would have been published in the act. But he was desirous of seeing the whole of the act.

Mr. BIBB remarked, to show that this act was not on record, that, a year or two after the passage of the rescinding act, certain gentlemen had been appointed to publish a digest of the laws of the State of Georgia. They happened to be in favor of the Yazoo claim, and insisted upon inserting in the work the act of 1795. The people of Georgia would not permit it, and the book in which this act was inserted was declared by the Legislature not to be a digest of the laws of Georgia.

Mr. LIVERMORE made some further observations of the same tenor as those of Mr. BACON, and Mr. TROUP replied.

When the question was taken on including the paper objected to by Mr. TROUP, it was negatived—53 to 46.

And Mr. TROUP accepting the other papers as a part of his motion, the whole was agreed to—57 to 22.

Mr. POINDEXTER offered the following resolution, as connected with this subject:

Resolved, That the Secretary of State be requested to lay before this House an abstract of all British patents, warrants, or orders of survey, filed in his office, agreeably to the several acts of Congress regulating the grants of land and providing for the disposal of the lands of the United States south of the State of Tennessee.

Mr. P. said, that a gentleman from Massachusetts (Mr. BACON) had, the other day, contended that the reservation of five millions of acres in

one of the above acts had in view the claim of the Yazoo purchasers. This construction had been denied on this floor as well as in the Legislature of Georgia. But, Mr. P. said, his present object was to see whether the claims already made on this land, did not exceed five millions of acres. If so, the residue left for the Yazoo claimants would amount to just nothing; and this House would be wholly precluded from acting on the subject of their petition.

The motion was agreed to without a division.

Mr. LOVE presented the petition of the President and Directors of the Bank of Washington, praying for an act of incorporation.—Referred to the Committee on the District of Columbia.

CONDUCT OF THE BRITISH MINISTER.

On motion of Mr. RHEA, the House resolved itself into a Committee of the Whole, 61 to 48, on the resolution from the Senate, expressive of the approbation of the conduct of the Executive in refusing to hold any further communication with Mr. Jackson.

Mr. RHEA moved that the Committee rise and report their agreement to the resolution.

Mr. GOLD said, if he was in order, he would move that the Committee rise, report progress, and ask leave to sit again. He would merely observe that the resolution proposed a few days previous by him and laid before the President, calling for certain papers, had not yet been complied with. As gentlemen had agreed to that resolution, he would thank them to explain their reasons for thus urging the consideration of the resolution before the papers had been obtained. He thought it a most extraordinary course, and would be obliged to the gentlemen for an explanation of their motives.

Mr. GARDENIER said, that on a question of such great importance as the present, and from which such serious and perhaps ruinous consequences to the United States might result, as he had the honor of stating on a previous occasion, the House could not proceed with too much deliberation. It ought to have all the information which it could possibly obtain upon every great question which might come before it. Such was the opinion which he had expressed when the two resolutions, of the gentleman from Massachusetts (Mr. QUINCY,) had been proposed to the House. On this question the Committee should not proceed without all the documents before them. The House would surely consult its own dignity, and not, after having called for information in relation to the question, part of which had been received, proceed to its discussion before even the part received had been printed, and before part of it had been communicated at all. The House could not conceive it proper to proceed to the discussion of the resolution, without giving time to obtain that information which it had itself, by consenting to call for it, deemed necessary and useful. He did not think it necessary to urge any arguments in addition to those which had before convinced the House of the propriety of obtaining the information; because, perhaps, none could be added,

and because if a contrary spirit to that which had then prevailed now existed, and a disposition was entertained to force the question, all reasons would be vain. If the House was so determined, it must proceed to the discussion of the resolutions from the Senate, without the documents before them, and without that information which it had before declared necessary to the inquiry. He could not think this a proper course; and therefore, for the honor of the House and the interest of the country, he hoped the motion of his colleague (Mr. GOLD) would prevail.

Mr. RHEA said, he should forbear to make any observations upon the merits of the resolution before the Committee. He wished to ask the Chairman if the motion that the Committee should rise and report progress would supersede the motion for rising and reporting the agreement to the resolutions. He hoped, however, that the House would not be obliged to listen to a lengthy discussion upon the resolutions from the Senate. I will put the question to gentlemen, said Mr. R., what are we doing here? What have we done? I do not speak in relation to the petty business of individuals, but to the wounds of the country, inflicted by the foreign Powers. What have we done in order to heal their wounds? Let gentlemen put their hands upon their breasts and answer the question. I will not consent to investigate the claims of private citizens, until the great questions concerning the interests of the country are first discussed; I will then be willing to take them up. He said the nation expected decision on the question. And would the House, would the Representatives of the people, forbear to do what was imperiously required of them? He hoped they would not wait for the papers required. They could have no bearing upon the resolution; which only required the House to express an opinion in relation to the conduct of the Executive and of Mr. Jackson. He would again ask, "what are we doing here?" He would be willing to investigate questions of minor importance when they had got through with that great question. The resolution was said to be of little importance. He thought otherwise. He believed it to be a question of great moment. But he hoped there would be a silent vote upon it. He thought it a time when decision should take place of discussion; and therefore hoped the Committee would rise and report the resolution. He asked the decision of the Chair, whether, after a motion to rise and report the resolution had been made, a motion to rise and report progress could be in order?

The CHAIRMAN decided that the latter motion superseded the same.

Mr. DANA.—The inquiry of the gentleman last up (Mr. RHEA) is a very pertinent one. What do we here? If it is determined that gentlemen shall act and vote upon important subjects without information, well may the question be asked, what do we here? And is it so necessary that we must proceed instantly to the discussion of this subject? Is it in a moment to liberate the country from the difficulties by which it is sur-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

rounded? After so many ineffectual struggles by the Government to free the nation from the dangers which have been yearly increasing, is it so that this resolution possesses the magic power of instantly freeing us from all our difficulties; reinstating us in our rights; and rendering us respected by foreign nations? The gentleman calls upon us to act, and not to deliberate; to decide, and not to discuss. Is it for this purpose that we are placed here? No, sir. It is the peculiar province of the Legislature always to act with calmness and deliberation; not to hurry forward with precipitancy and passion. Does the gentleman from Tennessee believe that we are placed here with the mere zeal of soldiers? I had always thought we were more to resemble the character of officers. Or are we upon important occasions to act first, and get our information afterwards? Are we first to lay down our conclusions, and then deduce the premises? He could see no necessity of acting with this precipitancy; and he hoped the House would proceed with proper calmness and deliberation, that the subject would not be pressed until gentlemen had all the necessary information before them, and that the Committee would agree to rise and report progress.

Mr. W. ALSTON had voted for the resolution of the gentleman from New York, under the supposition that those who had supported it, would not, if the President should return no answer before the House wished to take up the resolution from the Senate, attempt to delay its consideration on that account. He found this was not the case; and he should not consent to delay the consideration of the resolution, to wait for papers which the President in the answer reported by the gentleman who had moved the information, had not even promised to send. He should not consent to wait, on account of conversation which perhaps never took place; and for papers which very probably had no existence. At all events, they could have no bearing upon the question, and let them contain what they might, they could not alter his opinion in relation to the question before the Committee. He had not voted for them on that ground. If this information were obtained, it might be expected, as was the case when the House agreed to the call proposed by a gentleman from Massachusetts, (Mr. QUINCY,) that other papers would be demanded. It was always an easy matter for gentlemen who did not wish to meet a question, to find means for delaying it in a call for information.

Mr. GOLD observed, that the gentleman last up did not appear to recollect the import of the information requested by the resolution he had submitted to the House. The information called for embraced communications respecting conversations known to have taken place between Mr. Pinkney and Mr. Canning, in regard to a most important subject, and one which had been a principal cause of the difficulties and complaints of the United States for a long time past—no less a subject than the Orders in Council. This information it was important to obtain. He did not come here to act without debate. He did not

come prejudiced upon a question, and prepared to vote without information. It was said that they had not come there to deliberate, but to decide. That delay would be improper, and that it was necessary to act with promptitude. This had been said as if the State was in imminent danger, and as if the enemy were at the Capitol. Such language might have suited the officers who were sometimes appointed in Greece to inspire men to mount the ramparts when the foe was at the gates; but it did not become the Legislators of the Union, called upon calmly to deliberate on the nation's rights. Such precipitancy would ill become the dignified representatives of a free people. He expressed himself in these terms, because he had understood gentlemen as committing themselves, when they voted for the information embraced by his resolution, not to take up the resolution from the Senate until the communication from the President should be received. He had believed them, as admitting by their vote, that the information was necessary to the consideration of the subject now before the Committee. He could not conceive what had induced the sudden change. He had understood the gentleman from North Carolina (Mr. ALSTON) as making some kind of critical remark on the answer which the President had given to the committee who presented the resolution. The answer was a usual and satisfactory one. It was such as was customary with the President when information of an important nature was requested, and which required deliberation. There were resolutions embracing calls of a specific nature, to which specific answers were equally returned, but the resolution alluded to was worded in such a manner as must induce the President to deliberate, inasmuch as the information requested was of an important nature, and as it left the selection of such parts of the documents as might be proper, to the Executive. He hoped that gentlemen would not press the question on the resolution until that information was communicated, and that the committee would rise and report progress.

Mr. LIVERMORE said, in answer to the gentleman from North Carolina, who had seemed to suppose that the conversation called for by the resolution from the gentleman from New York, (Mr. GOLD,) might never have taken place, he would read a part of the letter from the Secretary of State to Mr. Pinkney dated November 23d: "This condition, too, appears to have originated in a mistake of your meaning in a conversation of Mr. Canning, as noted by yourself, and in an inference thence deduced as to the disposition of 'this Government.'" The conversation must certainly have taken place; and as Mr. Smith declares the third proposition to have originated in a mistake, it was important to know what that mistake was. If a mistake actually had arisen, it was important that the House should know it, and that the nation should know it. What injury could arise from delaying the question a few days? It was not of so pressing a nature that it should be thus hurried through the House. The

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

gentleman from Tennessee (Mr. RHEA) seemed to suppose that this resolution would put an end to all the difficulties in which the country was involved. If this were the fact, there would not be a man in the nation who would not sincerely wish it success. He wished to have an opportunity of seeing the resolution from the Senate fully discussed. He would not say what his opinion was upon its merits; but he wished, if he had any doubts on the propriety of its passage, to state those doubts, and express his sentiments. It was not candid for gentlemen to say that they did not want the information to make up their opinions. It was undertaking to judge for those who might want the information; and was not a fair course of proceeding, unless gentlemen in the minority were in the same condition with those who had lost their reason. A decision upon this question without discussion would be nothing but decision. And without information, it would be equal to deciding in the dark. This course could be of no utility unless gentlemen meant to pass the resolution by a *coup de main*; unless it was their intention to carry their point by surprise. He hoped the resolution would be discussed; and that the discussion would be carried on with calmness and without passion. Passion might do extremely well in the field of battle; but reason was the only proper guide in a deliberative assembly.

Mr. PERKIN seconded the motion that the Committee rise and report progress, with a view to give an opportunity for obtaining the information requested by the House, previous to the discussion of the question now before the Committee. It was supposed by some gentlemen that the information would have some bearing upon the joint resolution. In this respect there might be different sentiments. But gentlemen owed it to the courtesy which ought always to prevail, not to decide until the information expected was obtained. And although they might not think that information, as other gentlemen did, relevant to the subject under consideration, yet they owed it to the same kind of courtesy, not to prejudge the bearing of the paper until it should be submitted. He would agree that this principle might be carried too far; and that it would not be proper to refuse acting upon a resolution at all, until the information desired had been submitted. But in the present instance no Message had been received from the President in answer to the resolution. That the resolution was one of great importance all would agree. That it would amount, if passed, to a conditional declaration of war, he believed would not be denied—at least it appeared to him in that light. When, therefore, a resolution was under consideration, of so great importance as to contain a pledge of a conditional declaration of war, he hoped its consideration would not be precipitated. He trusted that it would be fully debated; that courtesy would prevail, and a little delay take place; and that the final question would not be unnecessarily pressed upon the House.

Mr. BACON made a few remarks tending to show that he might without any inconsistency,

having voted for the information requested, oppose the rising of the Committee to report progress, because he did not believe the information demanded could have any bearing upon the question before the Committee. He thought gentlemen would be puzzled to introduce any part of the information called for, into the discussion of the concurrent resolution. But he could very well apprehend how they would contrive to introduce arguments into the debate in relation to the denial of this information. He could already see a disposition among gentlemen to proceed in this way. He might perhaps differ with some of his friends upon this point, as he did in regard to the calls for information; but he was not for throwing an advantage possessed by the friends of the resolution into the hands of its opposers. He disliked to be met in this manner. He was against giving them an opportunity, in the consideration of the main question, of introducing this collateral one. Besides, it would save no time, for as long a period would be occupied in discussing this extraneous point, as would be consumed in a delay for the information. Upon the whole, therefore, he would, to avoid being met under the disadvantages alluded to, vote for the Committee's rising and reporting progress.

Mr. WHEATON did not know precisely what bearing the information called for would have upon the question; but it was granted that the resolution from the Senate involved questions, the decision of which might be of very great consequence to the interests and happiness of the people of this country. It was not therefore to be presumed that this resolution was to be suddenly debated, or to be debated without all the information which could be obtained in relation to a case considered by all as so very important. Some gentlemen wished for the information which had been lately called for. The House had previously indulged them; and had consented to have all the light thrown upon the subject of the resolution which might be thought necessary. It had agreed to get such information from the President as he might think proper to communicate. The resolution called upon the House to justify the Administration in resenting the disrespectful conduct of Mr. Jackson towards it. While it was engaged in so doing it should take care not to act in the same way. If the House, after having requested information from the President in relation to a particular resolution, should proceed to act upon that resolution without waiting for his communication, it would be evidently disrespectful to him. It would neither show respect for the President, nor for themselves, if the House proceeded to act without the information from him. He did not presume it would be proper to delay a question forever because that information could not be obtained; but, after having asked, it would be improper not to wait a sufficient time to receive it. He was of opinion that the President did mean to supply the information which was called for, and he therefore thought it would be most proper to delay the resolution until it was obtained.

DECEMBER, 1809.

Foreign Relations.

H. OF R.

Mr. RHEA again urged some of the reasons which induced him to oppose the delaying of the question, and the rising of the Committee to report progress; in which he could see no utility or advantage.

Mr. NEWTON was always desirous of getting a direct vote upon the merits of the resolution from the Senate. He had therefore voted for the information requested; because he did not wish that the discussion of it should be directed by any collateral points whatever. The information, indeed, might bear upon the great question of our foreign relations; but was not connected with the present case. As he was, however, desirous of getting at the main question on this resolution, he would agree to the rising of the Committee. The gentleman from Connecticut had said that the House should not proceed on the discussion of this great question with too much celerity. Upon examination he found that the subject had been brought before the Senate on the fifth of December, 1809! In order, as he before stated, that they might get at the discussion of the main question, without the interference of any extraneous circumstances, he should vote for the Committee's rising and obtaining leave to sit again.

Mr. GARDENIER again rose to address the Chair, when a Message was announced from the President of the United States, containing the information alluded to in the foregoing debate. The Chairman of the Committee informed Mr. G. that he was entitled to the floor. Mr. G. said he would not detain the Committee, in order that it might the sooner rise to read the Message from the President, which he believed was the best reason which could be urged upon the subject.

The Message is as follows:

To the House of Representatives of the United States:

Agreeably to the request expressed in the resolution of the thirteenth instant, I lay before the House extracts from the correspondence of the Minister Plenipotentiary of the United States at London.

JAMES MADISON.

DECEMBER 16, 1809.

After the Message and documents were read, they were ordered to be printed.

Mr. SMILIE observed, that the objection to discussion was now removed, and moved that the House again resolve itself into a Committee of the Whole. Motion negatived, 57 to 40, and the House adjourned.

TUESDAY, December 19.

Mr. MACON, from the committee appointed on the first instant, made a report of such rules and orders as are proper to be observed in this House; which was read, and referred to the Committee of the Whole, to whom is committed the resolutions submitted by Mr. BACON, on the seventh instant, in relation to indecorous language in debate, and to the practice of duelling.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill, to deprive, in certain cases, vessels of their American character, and to prevent, under certain disabili-

ties, any citizen of the United States taking a license from any foreign Power to navigate the ocean, or trade with any other foreign or independent Power; which was read twice, and committed to a Committee of the Whole on Friday next.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill authorizing the issuing of debentures in certain cases; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. LOVE presented a petition of sundry inhabitants of the City of Washington, praying that an act may be passed incorporating a company for the purpose of making, as far as the line of the District of Columbia, a road leading in the most direct route from the Capitol to Fredericktown, in Maryland, and a road passing over the Washington bridge, in the proper direction to Staunton, in Virginia.—Referred to the Committee for the District of Columbia.

The House resolved itself into a Committee of the Whole on the bill for the relief of William and Elias Rector. The bill was reported with an amendment, which was agreed to by the House, and the bill ordered to be engrossed, and read the third time to-morrow.

Mr. MORROW, from the Committee of Public Lands, presented a bill concerning claims to lands in the Mississippi Territory, granted by the British Government of West Florida; which was read twice, and committed to a Committee of the Whole on Monday next.

On motion of Mr. MONTGOMERY, five thousand copies of the Message from the President of the United States, received yesterday, were ordered to be printed for the use of the members.

FOREIGN RELATIONS.

Mr. MACON, from the committee on so much of the Message of the President of the United States as relates to our foreign relations, reported a bill respecting the commercial intercourse between the United States and Great Britain and France; and for other purposes.

[The 1st section prohibits all public vessels belonging to Great Britain or France from entering the harbors of the United States, subject to certain specified exceptions.

The 2nd section prescribes the punishment of those who shall aid the infraction of this provision.

The 3d section prohibits all vessels sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen of either, from entering the harbors of the United States.

The 4th section prohibits the importation into the United States of goods from Great Britain or Ireland, and France, and their colonies; or of goods from any foreign port which are the growth, produce, or manufacture, of Great Britain or France; unless in vessels owned wholly by citizens of the United States.

The above provisions to take immediate effect.

The 5th section prohibits, after the fifteenth of April next, the importation of goods from Great

Britain and France, and their colonies, unless imported directly therefrom.

The 6th, 7th and 8th sections, affix penalties to the infraction of these provisions.

The 9th section authorizes the President, in case either France or Great Britain shall so revoke or modify her edicts, as they shall cease to violate the neutral commerce of the United States, to declare the same by proclamation, after which the prohibitions of this act on the commerce of the nation so doing shall cease.

The 11th section repeals the act to amend and continue in force certain parts of the act, entitled "An act to interdict the commercial intercourse between the United States, and Great Britain and France, and their dependencies, and for other purposes."

The 12th section limits this act to the end of the next session of Congress.]

The bill was read a second time, referred to a Committee of the Whole, and made the order of the day for Friday next.

CONDUCT OF THE BRITISH MINISTER.

On motion of Mr. RHEA, of Tennessee, the House resolved itself into a Committee of the Whole, on the joint resolution from the Senate, approving the conduct of the Executive in refusing to hold further communication with Mr. Jackson, the British Minister.

Mr. RHEA, of Tennessee, expressed a hope that now no objection would be made to the passage of the resolution. The only objection yet made, as far as he had understood, was a doubt expressed by some gentlemen as to who was the first who suggested the project of enforcing the laws of the United States by the navy of Great Britain. An insidious attempt had been made to palm it on the Administration of this Government, which had failed to be proved. It had next been attempted to fix the stigma on Mr. Pinkney. This also had been disproved; and when they came to the bottom of the business, by the Message yesterday received from the President, it had been found that the whole affair had arisen from the suggestion of that renowned and famous politician, Mr. Canning, and to have proceeded from the same source as all our difficulties for years past.

Mr. R. was decidedly in favor of the resolution. Let me ask you, sir, said he, who have an interest in the adoption of this resolution? Every individual in the United States, I reply. The President of the United States, in his official capacity, is a Representative of all the citizens of the United States. Every citizen, then, is interested in his acts, and in supporting them when there is occasion. It is the duty of every nation, like individuals, to adopt those things necessary to its own happiness and interest. Will any one deny that the adoption of this resolution will have a happy effect on our union as a people, and respectability as a nation? Mr. Jackson did not make his offensive remarks in his individual character, but as a representative of the King of Great Britain. So far as we know, the conduct of Mr. Jackson may be traced to the source whence he

derives his authority; and, although Mr. Jackson were to be punished for his conduct by the British Government, as Admiral Berkeley was, by being recalled, yet, no doubt we should, in the same manner, hear of his being appointed to another mission. That, however, is the care of his own Government—self-preservation is our duty. I am confident that no attempt will be made to justify Mr. Jackson in his conduct, or to palliate it. It could only be palliated on the principle of invincible error or invincible ignorance, which will not be pleaded in excuse for him. His offence had the full appearance of predetermination, because he persevered in it, though warned to desist, declaring that he was only asserting matter of fact. Now, when the whole evidence on this case is examined, his facts appear to be bottomed on his own suggestions, from beginning to end. I impute everything that he has done to the source of his power; and thus a question arises between this Government and that of Britain. In such a case, I shall justify my own Government, because I believe it to be in the right. And I think the Administration has made a noble stand in behalf of the offended dignity of the nation; and I hope the resolution before us, approving of that conduct, will meet the unanimous consent of the Committee.

Mr. POTTER said, as he was called upon to vote on this resolution, he felt it his duty to give his reasons for so doing. He deemed it of some importance to examine the origin of this business, and to take a view of it, through its different stages to its final conclusion. It appears, said he, that after the United States had laid the embargo, the Executive instructed our Minister in London to inform the British nation that it was not meant in hostility to them, but as a mere innocent municipal regulation of our own. Whatever they may have thought of it, at that time, they soon found that its features were materially changed, and that it was stripped of all its innocence, and held up in this country as a coercive measure; and such an one as, if continued and rigorously enforced, would soon bring that haughty, imperious nation, to a sense of its duty, and that she would be compelled, from motives of self-preservation, to do us justice. Notwithstanding they may have suffered some little inconvenience at first, their sullen Ministry scorned to complain. After hearing nothing from them, and suffering very much ourselves, our Minister in London, I believe, was instructed to barter away this innocent regulation of ours for their great system of national policy, their Orders in Council. This attempt failed, and all we got for this offer, were the insolent sarcasms of Mr. Canning, which were too much for any American to bear. Our Administration, thus, finding that our commerce was ruined, and of course our revenue at an end—our expenses increasing, and our Treasury exhausting; and having already seen the fate of a former Administration, which resorted to loans and direct taxes to support this Government, and, like prudent mariners, wishing to avoid the rock upon which a former Administration had split—

DECEMBER 1809.

Conduct of the British Minister.

H. OF R.

was anxious to find out some plan to extricate this country from the very serious difficulties it was then laboring under; and their good sense led them all to the same remedy, and about the same time; for we find all the Heads of Departments (although not altogether, yet separately, and about the same time) in conversation with the British Minister on the same subject, and holding nearly the same language—and what was the result of all this? It appears that Mr. Erskine communicated what he honestly understood to be the meaning and intentions of our Administration to Mr. Canning, who then transmitted to him the despatch of the 23d of January, containing those three propositions which he had supposed would be acceptable here, and would form the basis of a treaty. This, sir, is the manner in which this difficulty originated; and it would have been well for the parties in this conversation, as well as for this country, if this conversation had been reduced to writing; for it appears, that when Mr. Erskine received this despatch, he did not discover anything in it more than he expected, from the information he had given to Mr. Canning; but, when he offered it for Mr. Smith's consideration, he found, for the first time, that he had misunderstood our Government, and that those terms were not only inadmissible, but insolent. Now, sir, it is clear that the despatch of the 23d January did not authorize Mr. Erskine to make the settlement which he agreed to; nor does it appear that he was asked by Mr. Smith if he had any other instructions different from those, nor did Mr. Erskine at that time pretend that he had any. The inference to be drawn is conclusive, that he had not; because, if he had previous instructions that would have authorized the settlement that he made, they certainly would have authorized him to have made the settlement first contemplated in those conversations, which was of importance to his nation, without waiting for the despatch of January. As he did not do it, it is clear, in my mind, that he had no power before—that the despatch gave him none—and it does not appear that he had any afterwards.

Now, sir, what was it the duty of our Government under all circumstances to have done? The parties are now in the same situation as to powers as before this despatch arrived, although Mr. Smith informs Mr. Jackson that he understood that Mr. Erskine had two sets of instructions to regulate his conduct, and that upon one of them, which never had been communicated to himself or the public, rested the jurisdiction of the terms finally agreed upon. This I gather from the following sentence in a letter from Mr. Jackson to Mr. Smith:

"You have informed me that you understood that Mr. Erskine had two sets of instructions by which to regulate his conduct; and that upon one of them, which had not been communicated either to you or to the public, was to be rested the jurisdiction of the terms finally agreed upon between you and him."

Pray, sir, how did Mr. Smith understand this? He says it was not communicated to him nor the public. How came he by this information? Was

it not the duty of Mr. Smith to have demanded of Mr. Erskine those powers before this settlement was made and finally agreed upon? because it was the opinion of all parties, that, before the despatch, he had no authority, and that gave him none, and it has never been pretended that he had any subsequent instructions. As this agreement was on our part honestly and immediately to be carried into execution, it was his indispensable duty to have seen the powers of the British Minister. It might have been otherwise if it was not to be carried into execution until ratified by both nations.

Now, sir, if it is proper to compare small things with great—and I do not know but common sense is the same in all kinds of business—suppose a gentleman should come to me to sell me your real estate, and we should converse about the terms, and when it was found that we probably could agree upon the price, he was then to observe that he would apply to you for a power to make the deed, and our bargain is suspended for him to produce it, and that, when it is produced, the terms are altered, and it contains no power to convey; what would be the conduct of a prudent man about to pay his money down? He would wait until another power was obtained from you authorizing the conveyance, or for a deed executed by yourself, placing no reliance on his responsibility. Would he go upon the existence of a power which, in the first instance, never had been even pretended, the existence of which had never been communicated to him or the public? No, sir, he would demand the sight of this invisible, wonder-working, miraculous power. Now, sir, in what do these two cases differ? I presume, at the time of their conversations, the first thing to be attended to was to see which could outdo the other in politeness, in professions of personal respect, and then in professions of a sincere desire of their respective nations to do each other justice, and to terminate in an amicable and friendly manner all former differences which led to the conversation, which was the origin of this business; and when both parties were together, nothing was wanting but a power in Mr. Erskine, which, when it came, was found incompetent. If, therefore, he had no power in the first instance, the despatch gave him none, and we hear of none until after the disavowal; and then he talks of the spirit of his several letters of instructions.

Let us now, sir, examine the documents for the insult alluded to in the resolution before us. It really seems to me that our Government had heard so much of the insolence of this Mr. Jackson, that they expected to be insulted, and anticipated it, and dismissed him to prevent its occurring in reality. I cannot for myself see any insult that is offered to our Government. It appears that Mr. Jackson was urged for the reasons of the disavowal; that he stated it was entered into without competent powers, and in violation of particular instructions. He was urged again, and made the same answer. The question would admit of no other, unless he had acknowledged that it was entered into with full powers in Mr.

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

Erskine so to do, and that the British Government had dishonorably refused to ratify it. Mr. POTTER quoted the following as the offensive passages in Mr. Jackson's letters:

"I have, therefore, no hesitation in informing you that His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were, at the time, in substance, made known to you; no stronger illustration, therefore, can be given of the deviation from them which occurred than by a reference to the terms of your agreement."

"I have shown that that agreement was not concluded in virtue of a full power, and that the instructions given on the occasion were violated."

"When I informed you that the agreement concluded here in April last had been framed in deviation from the instructions given for the occasion, my explanation was intended to apply to both parts of that agreement; that nothing required by the most scrupulous accuracy may be wanting, I now add, that the deviation consisted in not recording in the official document signed here the abrogation of the President's proclamation of the 2d of July, 1807, as well as the two reserves specified in the paper of memoranda enclosed in my official letter to you of the 27th ultimo. There is another motive for the disavowal of this part of the arrangement, considered to be so strong and so self-evident upon the very face of the transaction, that I am not commanded to do more than indicate it in the manner I have already done. By this forbearance His Majesty conceives that he is giving an additional pledge of his sincere disposition to maintain a good understanding with the United States."

"I must beg your very particular attention to the circumstance that His Majesty's ratification has been withheld, not because the agreement was concluded without a full power, but because it was altogether irreconcilable to the instructions on which it was professedly founded."

"Indubitably his agreement would nevertheless have been ratified had not the instructions, which in this case took the place of a full power, been violated."

In all these passages, Mr. POTTER said he could see no insult.

For my own part, said he, I do not believe the English want to settle with us at this time, although they may have wished it formerly, because all our restrictions on our commerce operate in her favor. Our embargo taught her a lesson that she never ought to have known; though I believe it was laid on from the best of motives. It taught her the imbecility of our own Government to carry it rigidly into execution; and it taught her the value of her possessions in America, and that she could do without us, and that our sufferings by the measure were greater than hers. The non-intercourse operates exclusively in her favor, because we carry our produce half way for her to neutral ports to glut the market, and sell it to her merchants for half price. The growers of the produce have to pay two

freights instead of one. And, again, British goods are smuggled into this country by speculators belonging to no nation, and restrained by no laws. The Government receives nothing for duties, and the people get goods for no less money. Even our own vessels take out a coasting license, and go direct to Great Britain, notwithstanding the prohibition of the non-intercourse law.

We have been insulted and plundered for fifteen years past by the belligerent nations; and, to be sure, sir, we have borne it with Christian patience, upon the principle, I presume, that it is better to suffer wrong than to do wrong. When we have been smote on one cheek, we have turned the other. When they have taken our cloak we have been ready to give up our coat, and to ask what they would please to have next. We have declared many years since, if my memory serves me, that we were the most wise and enlightened nation in the world, and at another time we have seriously declared that we would not submit. Notwithstanding all this, when we have been insulted by one nation we protest, when by another we remonstrate, and when a national ship is attacked in our own waters, in sight of the smoke of our chimneys, we issue a proclamation; and, last of all, when many gentlemen think that we have been grossly insulted by a foreign Minister, that stain is to be wiped away by the force of a joint resolution. If an individual finds fault with one nation's abusing us, his remark is immediately met by observing, that other nations have abused us as much. If we apply to France to do us justice, she says we must resist the Orders in Council of Great Britain, and help her to restore the freedom of the seas. American commerce will then have acquired all its liberty, and will be sure of finding favor in the ports of France. If we apply to Great Britain for justice, we are told that we must resist the Berlin decree. We have been expecting justice from those nations because we were just ourselves; but national justice and honor are now out of the question with those nations, and avarice, ambition, and power, are substituted in their room. It is not enough for us to fold up our arms and consider, because we are just and honest, that we are the peculiar favorites of Heaven, and are to be entirely exempt from the calamities that are now overwhelming the civilized world. We must prepare for the worst. I would make a firm and temperate declaration of our neutral rights, and I would demand of France and England a recognition of them. In the meantime I would permit the merchants to arm in defence of those rights, acting only in the defensive, instructing them in such manner as that no act of theirs should commit the peace of the country. This, sir, would replenish your Treasury, and prevent the necessity of resorting to loans and direct taxes. The merchants have already become very rich by the commerce of the country, and they know best how to manage their own affairs. If they should lose a few vessels carrying to market the surplus produce of this country, it would be no loss to the country. What the merchant lost

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

the farmer would gain; the property would all be in the country.

As to this resolution, I am against it on general principles. I never did vote for a resolve of approbation, or for an address under any Administration, nor ever will. If we can have resolutions to approve, we can have them to disapprove; and it ought to be a sufficient consolation to the President, and I presume it is, to believe that he squares his conduct by the Constitution, and that it meets the approbation of his own conscience. But this, I presume, is to be held up to convince foreign nations that we are not divided, and that we will stand by our Government. At the last session, this business of approving was considered anti-republican, and the minority could not then be permitted to approve the President's conduct. It was then of no importance to be unanimous; but now it seems as though everything that was near and dear to us depended on the passage of this joint resolution. I have known one President ruined by addresses and votes of approbation; it was then held up that the minority was opposed to the Administration, and that we were abroad considered a divided people; and the President was addressed from States, corporations, and societies, from all parts of the United States, approving everything he had done, and pledging their lives and fortunes to support him in anything he might do. Instead of his taking this as a mere compliment, that cost nothing, he took it all in earnest; but as soon as his Constitutional period of re-election came round, the people soon convinced him of his error, and dismissed him from office, which gave him such offence that he has declared war against himself, his own conduct, and Administration, and has even extended his resentment beyond the grave, and charged almost all the unpopular acts of his Administration upon one of the greatest men the world ever knew, and who is not in existence to answer for himself; when there was not one of those acts, during his Administration, but what, if he had refused his signature and approbation, could have been negatived, as there was not a Constitutional majority to carry any one of them without his approbation. Perhaps the same thing is now to be urged as was then—a division among the people, and the necessity of uniting. There is no division among the people now; there was none then; the division is between the *ins* and *outs*. The *ins* want to keep in, and the *outs* want to get in, and the division is not so much among the people as it is among those who want the people's money; and they now understand this thing very well, and have found that the question never has been, in reality, how much of their money should be spent, but who should have it; not how the Government should be administered, but who should administer it; and not how many offices should be created, but who should fill them. That there are parties in the United States cannot be denied, and that it is for the interest of the people that it should be so is equally true; and I could wish, let whatever party may have the ascendancy in the United States, that they may

have but a small majority, which will make them more attentive to business, and more circumspect in their conduct, knowing that a few changes may place them in a minority; but I consider it otherwise whenever a party come into power with an overwhelming majority.

This resolution has for its object not only the approving of the President's conduct, but the reprobating that of a foreign Minister, and convicting him of a gross, premeditated insult. Mr. Jackson only persists in asserting what he knew himself, and that was, that Mr. Erskine had no other instructions than those of the 23d of January, and that the settlement made was not only without authority, but in violation of those instructions; he does not say that our Government knew or did not know he had no other, but merely states what he knew himself. For my own part I consider his dismissal as a hasty, imprudent measure, although I could have seen no great good to be derived by his staying, as the terms held out in the despatch to Mr. Erskine could never have been submitted to; but as his stay in this country could have done us no possible injury, and his dismissal, and in the manner it has taken place, and the way we are now following it up, may have a tendency to precipitate us into a war unprepared, which I consider one of the greatest evils that can afflict any nation, I think it would have been well to have extended our patience and forbearance in this respect a little farther.

Mr. DANA.—A solemn legislative decision is proposed by the resolution now before us from the Senate.

As it regards a public Minister, accredited from one of the great belligerent Powers of Europe, our relations with that Power may be considered as within the fair range of discussion.

This country has claimed the privilege of a neutral Power—one of whose eminent duties is, a conduct strictly and truly impartial between the respective parties engaged in war. Of course the purport of this resolution may be compared with the tenor of our conduct respecting the great rival belligerent, and our relations with this Power may be properly taken into consideration. The question, therefore, is open to a discussion of our affairs with Great Britain and France.

The resolution proposes to declare a determination to employ the full force of the nation in a certain event. To execute this declaration may require various means, and means highly interesting to our country. When, therefore, we are considering the propriety of making a declaration so serious, we may inquire respecting our naval and military means of enforcing it. We may inquire, what augmentation of our naval and military force would be necessary; what is contemplated, and what are our pecuniary resources for meeting the extraordinary expenditure which may be requisite.

The resolution has reference to a public Minister of the highest order ever sent from this country. We have in our statutes provided for sending abroad no Minister of a higher grade than

that of Minister Plenipotentiary or Envoy Extraordinary. As it respects the intercourse with the foreign world, and the rules established by the maxims of public law, and the general usages of civilized nations, this is not a question which concerns only the United States, and which we can determine by our separate vote. It is a question to which the whole civilized world is party, because implicating principles which it has sanctioned; and in our proceedings upon it we should not act in a manner which would make us blush if the whole civilized world were present to witness our deliberations.

These general considerations are connected with the resolution, in addition to another interesting inquiry, whether the terms of the resolution are warranted, in point of fact, by the transactions which have taken place, as they appear in evidence before us.

The subjects which I have mentioned are so intricate and so various and so vast, that a complete discussion of them is what I do not here adventure to undertake, but to a part of them I propose to direct some observations.

Before I particularly examine the resolution, I request permission to state certain positions, in which I agree, so that gentlemen may know where we agree and where we differ; because, in this case, as in others, I would diminish the grounds of controversy.

Without going back to the full extent of our wrongs from Great Britain and France, I recur to decrees affecting neutral commerce which have been issued by the Dictator of Continental Europe, and to orders issued by the British King in Council. Omitting a particular discussion of them, I wish to be distinctly understood as avowing that I do not approve either the one or the other; and, from the most deliberate judgment which I have been able to form, on such examination as I have given them, I express my disapprobation of both. I consider them both as neither consistent with the rights of the United States, nor warranted by the principles of public law. And I utterly disclaim the whole doctrine of belligerent blockade, without a blockading force. The principles on which these opinions are founded, I will not detain the House by stating at the present time.

Further, I agree that the conditions stated in the despatch from Mr. Canning to Mr. Erskine, of the 23d January, 1809. (especially the two last of them,) are such as ought not to be admitted explicitly or by implication on the part of this Government. I admit not only that we ought not to stipulate that the British navy might take our vessels, but that we should not, even by implication, cede the principle itself. Of course, therefore, I do not admit, when any vessel of the British, under their Orders in Council, should have taken one of our vessels, violating a law of the United States, that it would not be perfectly competent for the United States to take cognizance of the question whether she had violated our laws or not; for it would be a question solely between our Government and its citizens. To have a law of the United States to be executed by the Brit-

ish navy, under the cognizance of their Admiralty, would be to relinquish an attribute of our sovereignty, and to abandon the precious duty of executing judgment in mercy.

I further agree that the privilege of a foreign Minister here accredited does not extend to charging the Government of my country with the detestable turpitude of intentional falsification in a matter of fact; and, on this subject, I do not inquire whether the charge be well or ill founded. It is not admissible within the principles of diplomatic intercourse. If the Government submit to it in terms, intercourse, on the principles of equality, must cease.

I agree, further, that the immunity of a foreign Minister here accredited does not extend to entering a public appeal against the Executive administration. Whether the appeal be well or ill founded, in point of fact, it is not for the foreign Minister to put the Administration of this country upon its arraignment at the public bar; it is not for him, through the medium of the press, to profess peace towards the people, and proclaim war against the palace.

I agree further, that the President of the United States has the Constitutional competence to receive Ambassadors and other public Ministers, and that, in the power to receive is included the power to refuse for reasonable cause, and that he is constitutionally the judge of this reasonable cause. Whenever, therefore, a foreign Minister has committed an offence for which he ought to be refused liberty to communicate with the Administration, the President may refuse it. If an offence more gross has been committed, for which the Minister ought to be required to depart from the United States, the President may order his departure. If the Minister has committed an atrocious crime for which he ought to suffer corporeal punishment, the President may order him to be sent home, that he may be punished by his own Government; and the gentlemen of the sword are the proper officers to be employed for this purpose. As the Minister has a rank of high public trust, let him be treated with public decency; but, in a case of atrocious criminality, let the proceeding have the character of decision, that he may be duly punished. Such I admit to be the power of the President of the United States, without any statute whatever existing on the subject.

Having made these admissions, I may hope gentlemen will acknowledge that I am not solicitous to extend the points of difference between us.

The inquiry arises, whether the language of this resolution is warranted by facts, as they appear before us? On this point I am willing, at this time, to waive dispute; not that I admit the resolution to be warranted in point of fact, for the documents laid before us, together with the Messages of the President of the United States, afford matter for much, very much observation interesting to the country. But on that subject I will not now occupy the time of the House; for, in the view which I take of the resolution, I

DECEMBER, 1809.

Conduct of the British Minister.

H. of R.

propose to consider it on the basis of what is contained in the letter of the 23d of November from Mr. Smith, the Secretary of State, to Mr. Pinkney, our Minister in London, and the Message of the President, communicated to Congress at the opening of this session. I am not, at present, about to dispute whether an adjustment of differences was probable; I may even admit that. After the irritating and disgusting circumstances attending the correspondence between the Secretary of State and Mr. Jackson, it was not probable that they would have come to any definite adjustment; and I am willing to admit that Mr. Jackson may have waited for proposals to be made to him, as proposals were made to France—without this Power having first made proposals to us—if I do not misunderstand the President's Message.

Taking up this resolution and the letter from the Secretary of State to Mr. Pinkney, I ask, in the first place, what is the import of the resolution? Is it merely approbating the conduct of the President of the United States, and a manifestation of respect and decorum towards him? For myself, if it be merely the language of approbation of the conduct of the President of the United States, I am not making objection to it on the ground that we ought not to pass a vote of approbation. I am afflicted with no scruples of that sort. If gentlemen who opposed a resolution of approbation at the last session, choose now to support this resolution on the principle which they then opposed, it is not for me to object to it for such cause. If they are disposed to consider their former arguments as so many collections of straw, it is not for me to deny to the gentlemen the privilege of overturning and destroying such works of their own hands. Nay, further, if this resolution is to be considered as having the nature of a joint address to the President of the United States, I make no objection on that account. Some gentlemen may heretofore have seemed to be afflicted at the manner of addressing the President of the United States as being too adulatory. I am not troubled with their past scruples on the subject of addresses, and, considering this as a joint address to the President, should make no such objection.

If the principle of approbation be considered as involving an equal right to censure, I make no objection to the resolution on that account. But of this subject I would be cautious, because I might censure wrongly. The President might have reasons for his conduct which I did not know. I would be cautious also, because if I should censure where censure ought not to be pronounced, I might do injury by concurring in a procedure tending to diminish the confidence of the nation in the Chief Magistrate.

But this is not a resolution merely approbating the conduct of the President of the United States. It is not called for by anything which has been done. It is not conformable to the true spirit of what has taken place. It is rather reproachful to the President than honoring him with praise. It is a denunciation of a foreign Minister here accredited; it is expressed in language which your

Chief Magistrate would not adopt in his Message to Congress, and which he did not authorize in addressing our Minister abroad. Sir, public Ministers and other public men may be exposed to wrongs of two kinds, personal violence, and violence done to their reputation. The case is rare indeed in which a public Minister, a Secretary of State, or Head of any other Department commits an offence, legally exposing him to corporeal punishment. But on a question of decorum should we permit ourselves to outrage it? When reprehending a violation of decorum, shall we ourselves violate it? Sir, I request you to look at the letter written by the Secretary of State, under the direction of the President, to our Minister in London. I will not say that the Secretary of State, in his letter to Mr. Pinkney, meant to affirm that those printers in this country who publish matters affecting the reputation of a public Minister, might be prosecuted at common law here, and be subjected to fine and imprisonment, at the discretion of the court; and yet, if that be not his meaning, where is the law to which a foreign Minister could have recourse? But his language at least shows, that he considers a wrong done to the reputation of a public Minister as an injury for which he may reasonably complain, as he may for a wrong done to his person; and that however freely our citizens may speak or publish their sentiments, it is not proper in our public acts to speak wantonly against any person coming here in a public character from a foreign Government. When a public Minister has been admitted to come here in the faith of an honorable reception, shall the National Legislature undertake to blast his character? Gentlemen will feel it as becoming them to be cautious of inflicting this wound on the reputation of a stranger, having a public trust of high distinction and thus honorably received by our Administration, especially when they are not warranted by the course adopted on the part of the Administration.

Let us then, sir, compare the language of this resolution with the language adopted by the President of the United States. The resolution charges "Francis J. Jackson Minister Plenipotentiary of His Britannic Majesty near the United States," with having used, in official correspondence, a language highly indecorous and insolent; and then, going on in form of elaborate climax, language still more insolent and affronting; next, outrageous and premeditated insults; then, a still more direct and aggravated insult and affront to the American people and their Government, an insidious attempt to excite resentments and distrusts; and lastly, appealing through false or fallacious disguises. Let us now observe in what manner the President has thought proper to speak by the Secretary of State, with respect to what is called the appeal in the letter, headed "Circular," and purporting to be a letter from Mr. Jackson to the British Consuls in the United States. After stating it in the letter to Mr. Pinkney, the Secretary of State remarks "it can only be regarded as a virtual address to the American people of a representation previously addressed to their Govern-

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

'ment; a procedure which cannot fail to be seen ' in its true light by his Sovereign." So much on that subject. With respect to the other, there is this general phraseology: "The observations to ' which so much extent has been given in this letter, ' with those contained in the correspondence with ' Mr. Jackson, will make you fully acquainted ' with the conduct and the character he has de- ' veloped; with the necessity of the step taken in ' refusing further communications with him, and ' with the grounds on which the President in- ' structs you to request that he may be imme- ' diately recalled. You are particularly instruct- ' ed at the same time, in making those commu- ' nications, to do it in a manner that will leave no ' doubt of the undiminished desire of the United ' States to unite in all the means, the best calcu- ' lated to establish the relations of the two coun- ' tries on the solid foundation of justice, of friend- ' ship, and of mutual interest." Considering this instruction as marking the disposition of the Ex- ' ecutive, does the resolution before us correspond with that disposition as expressed in the letter to our Minister at London, or in the President's Mes- ' sage to Congress at the opening of the present session?

Much has been said (not however on this floor) of some case or cases in which a similar course is supposed to have been deemed necessary; and a case has been mentioned of a Minister from the Court of Vienna in the reign of George the First. But, as it has not been urged in this debate, I content myself at this time with observing, that the case of the Imperial Minister (De Palm) was essentially distinguished from the present, and that as far as I recollect it I find nothing to warrant the resolution before us.

I have some objection, however, to the present resolution, because it seems, although I do not here charge it as a fact, to have been too much copied from a precedent to be found in a resolution of a British House of Commons respecting an affair materially different; and in some part there seems to have been copied a language better adapted to auxiliaries in pugilism than to the legislators of a great and enlightened Republic, a language which the British Parliament did not address to their King. A resolution was moved in the House of Commons for an address; and on that motion there was objection as to manner of expression, although the resolution was ultimately carried without a contradictory vote. But in the joint Address of the Houses of Parliament to the King, the phraseology was varied, and they did not address him in the style of boxing familiarity.

Thus far, sir, I have considered the resolution before us as not warranted by the official language of the President of the United States and the Secretary of State. In addition to what has already been observed with this view, it is to be noted, that the President, in his Message to Congress, has not even mentioned Mr. Jackson's circular letter to the British Consuls. This letter, indeed, and its being put into circulation, are noticed, but not with laborious hardness of phrase, in the let-

ter of the 23d of November, from Secretary Smith to Mr. Pinkney. But the President of the United States did not regard the subject as worthy to be named by him when giving to Congress information of the state of the Union and recommending the measures necessary and expedient.

The President's Message and the Secretary's letter appear expressive of a disposition to use language which should not in its manner be offensive to the British Government itself, and to suspend proceedings of an hostile character until an answer may be received from that Government. This resolution appears to be formed on directly opposite principles. What, sir! can Congress, can any men think it necessary to say that they will support the President in refusing to receive a communication from a foreign Minister, or, that they will support him with the whole force of the nation in so refusing? You do not expect the Minister to force a communication on the President. This is too absurd, and cannot be the real meaning of the resolution. The only manly idea intended to be conveyed to the resolution in this respect, would be, that the Congress mean to support the President in a conflict with the British Government eventually. Why, sir, is such language at the present time proposed for adoption, as if it were either necessary or expedient? The British Government perhaps may not be perfectly satisfied with the conduct of this Administration towards the Minister from Great Britain to the United States, and yet it might be thought proper to recall him; because unacceptable to the President of the United States, because the President has requested his recall, and because under existing circumstances the further continuance of such a Minister in this country might not be useful to the Government that sent him. Do you wish to place the affair in such a state as to render it peculiarly difficult for the British Government to recall him, except in prelude to war?

Do you approve the procedure of the President in causing application to be made by the Secretary, of State in a style of guarded decorum, instructing the American Minister at London to request the recall of the British Minister who has been here received, and will you send a menace to accompany the request? In this view what is the proposed resolution, if it be anything? What is meant by a solemn pledge to the world for calling into action the whole force of a nation, eventually, against a foreign Power? If language has certainty of meaning, it is a provisional defiance of war, solemnly made known to the world—a national challenge to battle. Have you weighed fully all that is implied in this defiance of war? Are you prepared to sustain it fully by all your means? Or, can you say that you do not intend this? Is it possible that the representatives of the people of the United States can solemnly announce to the world a pledge to call into action the whole force of the nation, and yet that it can be all idle words? That in fact they intend to do no such thing as they promise? Are we indeed prepared to pronounce ourselves fallen thus low?

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

Considering gentlemen as serious in announcing this pledge to the world, and giving this national defiance to war, I ask what is to be the result of the conflict if we are not prepared for it, and how far are we prepared? This inquiry suggests an attention to the resolution under two different aspects, as we know the relations of Executive departments to be affected or varied according to views of peace or war. On questions of great national controversy, the Department of State has in charge to attend to those gratifying themes, the rights, the honor, and dignity of the nation and Government. And these themes may be presented the more for public attention as the state of affairs becomes hostile, until their most imposing influence over the public passions is realized amidst the operations of declared war. In a state of peace, the Department of the Treasury may attract regard from redundancy of revenue and extinction of debt, and projects of improvement. But the frown of war reverses the scene. On this Department is now devolved the task of devising ways and means for supplying extraordinary expenditure or waste. The ungrateful subjects of attention are the exhaustion of the Treasury—loans—taxation—the option of difficulties in procuring money—the choice between different modes of imposing pecuniary burdens on the people. If this resolution be pursued according to its import, additional charges on the people must be required. To give eclat to the Department of State, can you be willing to embarrass the Department of the Treasury?

There is another reason why we should be cautious. Can it be expedient for the public to make experiments tending to waste the national character? More than two years have elapsed since an interdictory proclamation was fulminated from the palace against the British navy. A squadron concerned in committing the offence mentioned in the proclamation, was suffered to remain for several months within the waters of the United States, in open defiance of the Executive interdict and the exclusive right of territorial jurisdiction. There that squadron was suffered to remain, although the power given to the President by statute, I believe, extended to employing the military and naval forces of the United States and the militia, at the President's discretion, to compel respect to his proclamation. The offending squadron was suffered to remain there, notwithstanding the number which the Government had of those highly recommended aquatico-terrene vehicles denominated gunboats. The indignity then was greater than is to be found in the subject of this resolution. Yet the Government did not then assert the paramount right of territorial sovereignty with effect. With such experience, what honor, what utility, is to be expected from passing this resolution now? What is to be expected but irritation without benefit, embarrassment without extrication? When they attend to your measures, will foreign Powers believe that such a resolution proves your title to respect?

A further reason against the resolution is founded on the conduct of the President of the United States; it is the consideration, that he has not ordered the British Minister (Mr. Jackson) to depart from this country. Until that order is given, no such resolution as the present ought to be passed. The extraordinary spectacle is now exhibited of a Minister accredited from a foreign Government, who is denied the eminent, direct privilege of the diplomatic character, the privilege of communicating with the Government to which he is sent, and yet is to enjoy immunities which are auxiliary to the exercise of diplomatic functions. The case is novel in the proceedings of this country. It is so extraordinary that the official publication of the refusal to receive communications from him might have been considered as a disavowal by the Administration of his diplomatic character, and consequently as a deprivation of his characteristic immunities, had not a certificate of special safe-guard to the contrary been given by the Administration. The case is clearly different from that of the Spanish Minister, who, I believe, was admitted to have written communication with the Administration, but was admonished by authority of the President not to appear in the City of Washington, who refused, however, to obey the admonition, but was suffered to come and remain, according to his avowed determination, within this extensive city, as he might find convenient or for the interest of the King his master.

These are some of the reasons for which, although it were supposed correct in statement of facts, I am not prepared to vote in favor of the resolution on the table.

It is a consideration of a different nature, that the phraseology of the resolution tends to draw aside the attention by placing it on a basis which is objectionable as being incorrect, not as in point of fact, but of principle. This, sir, leads me to consider the litigated subject of the powers of Mr. Erskine to negotiate and conclude the provisional arrangement of the last April. On this subject, I leave at once the greater part of the discussion between the Secretary of State and Mr. Jackson, as not distinctly exhibiting the specific character of the question. I consider a public Minister not authorized in virtue of a general letter of credence to stipulate any one thing to be done on the part of his Government. If I understand the course of argument on the part of the Secretary of State, it seems to assume as a basis, that a public Minister here accredited is entitled to stipulate for his Government in virtue of his letter of credence without further authority, or at least that the Government here should regard the Minister, in virtue of his letter of credence, as authorized to conclude such stipulations so as to be obligatory on the Government giving the letter of credence. This I do not admit to be correct either in principle or usage.

Permit me, sir, to call upon gentlemen to recur to the time when the public law of Christendom in relation to diplomatic intercourse may be considered as assuming regularity of character. I request gentlemen to recur with me to the epoch of the Treaty of Westphalia. The great

H. of R.

Conduct of the British Minister.

DECEMBER, 1809.

work of the learned Grotius, on war and peace, first reduced to general system the body of public law in Europe. He was one of the great masters in science who have appeared formed to rise above contemporary competitors in their respective spheres, and acknowledged beyond dispute to be greater than those preceding or succeeding them. As such he was first made known with distinguishing honor by Gustavus Adolphus of Sweden, one of the greatest men and heroes of his age or of the world. The work of Grotius was published in the year 1625; and the Treaty of Westphalia was concluded in the year 1648, consisting of a treaty concluded at Munster and another at Osnaburg, within the Circle of Westphalia, and both signed on the same day, being the result of a Congress composed of Ambassadors, Plenipotentiaries, Ministers, Delegates, Commissioners, Deputies, indeed almost, if not completely, every grade or description of governmental representation known in the whole Christian world. The conclusion of the treaty put an end to conferences which had long holden Europe in suspense, and terminated the famous Thirty Years War. Never before or since, I presume, were so many diplomatic characters assembled for negotiation or mediation, and such and so various interests to be arranged at one time by treaty. The great interests of the Catholic and Reformed religions in Europe, the Emperor, the Electors, Princes, and States of the Germanic body, France, Sweden, the States General, with the respective allies, all were concerned. Prussia was not then erected into a kingdom, and Russia had not taken rank under the Great Peter among the civilized Powers of Europe. From the nature of the affairs and the great number of public men from different portions of Europe, the famous Congress in Westphalia, after the publication of Grotius had attained high distinction, served to make known and establish extensively the principles constituting the public rules of intercourse among the Governments of the Christian world.

We are now called upon to pronounce respecting a question depending on those rules of intercourse as recognised and illustrated by national usage. What is the principle that protects and sustains in full immunity the Ministers of the United States in Britain, in France, in Prussia, or in any part of the civilized world? It is the respect due to those rules, a respect which the various Governments of whatever form have concurred in manifesting and enforcing. Nor can we claim to hold a course in diplomacy incompatible with such national usage, unless we strike ourselves out of the general pale of Christendom.

This question, therefore, is to be considered not merely as an abstract discussion; but we have now to inquire what is a letter of credence according to the public law and diplomatic usage of Europe? Is it an authority in stipulating anything to be done on the part of the Government sending the Minister? If it be, I request to know the proof: according to my apprehension, it is not; and I desire gentlemen to enlighten me on this point, if I err. If this opinion be erroneous

I should hope it might be made evident with respect to myself, that I may not continue in error. From whatever source there can be derived any aid to ascertain the true principle, if gentlemen honored by especial confidence respecting affairs of State, if any of the law officers or even members of the Cabinet, would be pleased to contribute to the stock of legislative information, I solicit the correction of any error, if indeed I err, on this topic.

With these sentiments, I do not propound for discussion any question respecting the negative knowledge of the Administration. I do not inquire whether the Executive Administration of the United States had a knowledge that Mr. Erskine had not competent powers, or had a knowledge that he was not instructed to accede to the provisional arrangement between him and the Administration in April. The question is, did the Administration know that Mr. Erskine had the necessary authority? The question is not, what was the ignorance, but what was the knowledge of the Administration? Was Mr. Erskine known to have any power for making that arrangement?

Permit me now, sir, to state what I understand to be a letter of credence. It is a letter of State, addressed to the Government to which a Minister is sent, and it is expressive of the character and grade of diplomacy with which he is invested; if the Minister be received, he must be received according to the letter of credence, and not otherwise. This is so much the established course, that where a Minister remaining at any Government is promoted to a higher grade of diplomacy, he presents letters of recall as to the lower grade and of credence as to the higher grade in which he is to be received. The authority which a Minister has in virtue of a letter of credence is not to make promises for his Government. He may declare facts; he may present complaints and remonstrances; he may exhibit his powers of argument; he may discuss topics of great interest, but he cannot stipulate for anything to be done as obligatory on his Government. For this purpose, the Minister must have a distinct authority. This I understand to be the general usage, not, however, without exception. The exception has been made with respect to a Nuncio or Legate from the Pope, whose letter of credence was so framed as to include the necessary authority to negotiate or conclude arrangements. This authority was added to the necessary clauses of a letter of credence, and the essentials of two diplomatic documents were comprehended in one. But the mere letter of credence gives no such authority. In support of these positions, I would refer gentlemen to writers on public law whom I presume they will admit to be correct on this topic—Martens, Vattel, Wicquefort; writers of authority certainly as to the known diplomatic usage in Europe. Others perhaps might have been named if I had found opportunity in this place to consult all the writers worthy of attention.

It may now be proper to state what I consider

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

to be the full power, which expression is almost technically appropriate in diplomatic language. It is a document not addressed to the Government to which a Minister is sent. It is in the nature of an open letter addressed to mankind in general, and committing to the Minister bearing it the necessary authority to negotiate and eventually conclude terms of agreement respecting the subject or subjects therein mentioned. It is a public commission expressing the powers to be exercised, a document of ample form, a letter patent, a public act authenticated under the seal of Government. And this the Minister exhibits in manifestation of his being fully empowered to negotiate and stipulate on the part of his Government. The full powers are especially proper in the more solemn agreements, and in cases of formal treaty between independent nations.

Where some temporary stipulation is contemplated, or some particular affair not deemed of primary importance is to be arranged by agreement, if there be a Minister already residing with the foreign Government, there is not always the same formality with respect to the distinct authority given to the Minister. In such case, a patent of full power is not made out in ample form; but the proper officer of State dispatches a letter of instruction giving the distinct authority necessary for the proposed negotiation. Yet, whether the Minister undertakes to negotiate in virtue of a technical full power, or in virtue of a letter of instruction, it is proper to exhibit his distinct authority before signing any arrangement or stipulation, intended to be mutually obligatory on the respective Governments. He may fairly and with perfect propriety be called upon to exhibit such authority in cases where the terms are to be expressly reserved for the ratification of his own Government. But if the terms of engagement are to be deemed obligatory and acted upon accordingly as soon as signed by the negotiators, and no ratification is reserved, it is more peculiarly proper for the negotiating Minister to exhibit the official evidence of his authority to enter into stipulations. If he does not exhibit the evidence, it becomes the incumbent duty of the other negotiating party to call for it before the conclusion of any such terms of engagement, or to refuse to conclude the terms until the evidence is exhibited officially and the authority ascertained to be sufficient. In this case, if the distinct authority be not offered or called for and found adequate, there is a mistake and of course a failure in duty on the part of the Administration in concluding the engagement; unless indeed the transaction may have been understood at the time as not warranted by regular authority, but expected to be confirmed as an acceptable project. I express myself in these terms, wishing to be strictly decorous in manner and believing the general principle correct. When an Administration enters into engagements or stipulations with a foreign Minister, to be immediately executed without any reservation, it is incumbent on the Administration to require the official exhibition of the distinct authority of the Minister for mak-

ing the stipulations; and if the terms be concluded by signature and delivered before the authority has been exhibited and ascertained to be adequate, there is a mistake and of course a failure on the part of the Administration.

When, therefore, gentlemen speak of Mr. Erskine's having competent powers to make the provisional arrangement in April, they may be desired to produce the regular evidence of the fact. If the negotiation was conducted according to the course of diplomatic usage and strict propriety, there is the regular evidence of his being authorized to make the arrangement, and it can be produced. If he had a patent of full power, a copy authenticated by the Minister, or a Secretary acting under him, would doubtless be considered proper evidence to be deposited with the archives in manifestation of the authority of the British Government to conclude the arrangement. If his authority was contained in any letter or letters of instruction, the authentic copy of such authority would, with the like propriety, be deposited in the Department of State.

The language of a part of the correspondence respecting Mr. Erskine's authority seems to be grounded on mistake. The Administration is spoken of as not knowing the restriction of his authority. This language might have been accurate if he had exhibited a full power giving him authority to negotiate and conclude stipulations: because, in the case of a full power embracing the whole subject of negotiation, the Minister might be restricted in the exercise of his power by orders from his Government instructing him how to proceed and on what he might conclude. And when he has restrictive instructions for his own direction and a full power to be exhibited to the Government with which the negotiation is had, if he departs from the instructions, his own Government, notwithstanding the formal plenitude of his power, is considered as not bound to ratify his acts, especially if he has departed from his instructions on a subject of importance to the honor or rights which he was instructed to maintain. But, in the case before us, where can we find sufficient reason for speaking of the restriction of authority as being unknown if the authority was known? There does not appear to have been any restriction, except what was inherent in the nature of the authority. The same despatch, the letter of instruction, gave the authority and defined its extent. In the nature of the thing, the Minister could not have more authority than was given to him; and he neither was nor could be authorized to act beyond the extent of his authority. How then, in this case, is it possible to separate the authority from what is called the restriction? If, therefore, the negotiation has been concluded according to the principles of public law, the evidence of the authority, such as it existed and appeared in fact, neither more nor less, can be produced. Unless there be some evidence of a distinct authority ostensibly competent to the arrangement, where is the propriety of insisting on explanations as if there had been apparent authority? Explanation

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

is obviously due where the Minister has exhibited a competent full power, on the faith of which an arrangement has been concluded, if his Government disavows the arrangement because of departure from instructions on points important to the Government. The violation of instructions, and the importance of the matters respecting which they have been violated, constitute the basis of the proper explanation, to which may be added proper compensation for the failure, with due attention to the time and manner of making the explanation.

The case of the arrangement with Mr. Erskine has sometimes been compared to that of the treaty signed at London on the 31st of December, 1806, by Messrs. Monroe and Pinkney. But the cases are materially different. That negotiation was conducted with observable propriety and decorum by the negotiators of each party. Perhaps no case is to be found in which the respective Ministers insisted with more firmness and perseverance on the claims, interests, and pretensions of their own Governments, and yet preserved towards each other so much decorum and honorable attention in their official and personal communications. Although Messrs. Monroe and Pinkney had full powers for the negotiation, they had instructions separate from those general powers, and by these instructions they were restricted according to the specified terms. In acceding to the articles as they believed expedient under the existing circumstances, they gave notice to the British Plenipotentiaries, that they proceeded to the signature of the treaty on their own responsibility, and that the letter of their instructions did not warrant the arrangement in the manner in which it was made; although they believed the essential objects of their instructions to be attained in substance for practical benefit to the United States, and accordingly they trusted that the terms would be approved by our Government.

The British Government had not just cause to complain and insist on formal explanations merely because the treaty was disavowed in this country, although the full powers of Messrs. Monroe and Pinkney, on the part of the United States, were exhibited and appeared competent; for the restriction contained in the instructions had been fairly communicated to the British Plenipotentiaries. Accordingly, the British Secretary of State, afterwards in his official note, stating the King's acquiescence in the President's refusal to ratify the treaty, did not complain on that account, but he adverted to the failure of conforming to instructions as a matter between the American Government and its Commissioners.

On the subject of that treaty, however, there is another inquiry which concerns ourselves, and on which the British Government can have no right to say anything; for it is not their concern, but ours exclusively. The inquiry is, whether the treaty was not of so much importance, concluded after so much discussion, and by such persons, and under such circumstances, that it should have been submitted to the Senate, who might

have advised its ratification unconditionally or on condition of such modification as, after full deliberation, might be judged best for the United States? Whether the affairs of the country have not since been changing from bad to worse, instead of securing more beneficial terms, or any terms whatever?

With a view to the general subject of letters of credence, and the distinct authority of public Ministers, I will now refer to examples in the history of our own Government, without detaining you by citations from the works of foreign writers on public law.

The first authority to which I now refer, is the authority of President Madison as President of the United States. I propose to show, that prior to the present session of Congress he believed it proper that a public Minister Plenipotentiary having letters of credence should also have a distinct authority to enable him to stipulate in behalf of his Government. With this view I refer to the Message from the President of the United States at the commencement of the last session of Congress. In that Message, there is a clause relative to the purport of certain instructions for our Ministers at London and Paris, and then immediately follow the expressions which I will now read:

"Soon after these instructions were dispatched, it was found that the British Government, anticipating, from early proceedings of Congress at their last session, the state of our laws, which has been the effect of placing the two belligerent Powers on a footing of equal restrictions, and relying on the conciliatory disposition of the United States, had transmitted to their Legation here, provisional instructions, not only to offer satisfaction for the attack on the frigate Chesapeake, and to make known the determination of His Britannic Majesty to send an Envoy Extraordinary with powers to conclude a treaty on all the points between the two countries; but, moreover, to signify his willingness, in the meantime, to withdraw his Orders in Council, in the persuasion that the intercourse with Great Britain would be renewed on the part of the United States.

"These steps of the British Government led to the correspondence and the proclamation now laid before you; by virtue of which, the commerce between the two countries will be renewable after the tenth day of June next."

The language here is direct as to the fact stated. The fact is mentioned as being unquestionably ascertained, as being discovered and known to the Administration, although perhaps not to the great body of the community, as being known after examination. A mode of expression such as is observable in the Message would be of strong import in cases where persons are bound by oath or affirmation to declare the truth of fact according to evidence. On reviewing the statement communicated to Congress by the President, we extract this sentiment distinctly—it was found that the British Government had transmitted to their Legation here, provisional instructions to signify the willingness of His Britannic Majesty to withdraw his Orders in Council, in the persuasion that the intercourse with Great Britain would be renewed on the part of the United States; and the steps of the British Government led to the correspon-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

dence and proclamation laid before Congress. Why should the expressions have been so direct and explicit as to the provisional instructions and their import, if no distinct authority was necessary to give validity to the provisional arrangement? In the proclamation, the Hon. David M. Erskine, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, is stated to have made the specified declaration by the order and in the name of his Sovereign. If the letter of credence were believed sufficient to enable the Minister to stipulate for his Government, would the statement have been made so distinctly mentioning the transmitted instructions, the steps of the British Government, the declaration of the Minister by the order of his Sovereign? The President in the full belief of the statement would of course believe the arrangement to have been validly concluded. But, from that Message of the President, may we not justly deduce the inference—a letter of credence does not enable a Minister to make stipulations obligatory on the Government from which he is accredited?

In retracing the history of our Government, the next authority refers us to the Administration of President Jefferson. It is the case of an extraordinary mission comprehending a Minister having the character of Plenipotentiary in ordinary. Messrs. Monroe and Pinckney were appointed Commissioners Extraordinary and Plenipotentiaries for negotiating arrangements with the British Government; and as such they had letters of credence from the United States. Yet they also had full powers in a commission authorizing them to treat severally as well as jointly. This, according to my apprehension, sufficiently appears from a volume of State papers communicated by President Jefferson to the tenth Congress, particularly a letter from Mr. Madison, Secretary of State, to Messrs. Monroe and Pinckney. It is dated from the Department of State, the 17th of May, 1806. Permit me, sir, to read the first part of the letter. "Gentlemen: I herewith enclose a commission and letters of credence, authorizing you to treat with the British Government concerning the maritime wrongs which have been committed and the regulation of commerce and navigation between the parties. Your authority is made several as well as joint, as a provision for any contingency depriving either of the co-operation of the other."

We will now recur to the Administration of President Adams, who was so well known as a diplomatic functionary in Europe. Among the State papers which he communicated to Congress, we may find instructive documentary information relative to diplomatic credence and authority. Among those papers is the letter of credence for the Envoys Extraordinary to France according to full form of diplomacy. These are the terms:

Credence for Messrs. Pinckney, Marshall, and Gerry, Envoys to France.

JOHN ADAMS, President of the United States of America, to the Executive Directory of the French Republic:

Citizens Directors: Desirous of terminating all differences between the United States of America and

the French Republic, and of restoring that harmony and good understanding, and that commercial and friendly intercourse, which, from the commencement of their political connexion until lately, have so happily subsisted, I have nominated, and by and with the advice and consent of the Senate of the United States, appointed Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, distinguished citizens of these States, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary to the French Republic, for the purpose of accomplishing the great objects above-mentioned: Wherefore I pray you, Citizens Directors, to give full credence to what they and each of them shall say to you in these respects, in behalf of the United States, and also when they shall assure you of the sincerity of our wishes for the welfare of the French Republic.

Given under my hand and the great seal of the United States of America, at Philadelphia, the thirteenth day of July, in the year 1797, and of the independence of these States the twenty-second.

JOHN ADAMS.

By the President of the United States:

TIMOTHY PICKERING.

Secretary of State.

Here gentlemen may observe, that the letter of credence expressly states the objects of the mission extraordinary, and desires full credence to be given to the Envoys in those respects. Says the letter of credence, "I pray you, Citizens Directors, to give full credence to what they and each of them shall say to you in these respects, in behalf of the United States." But did the President then in office suppose the letter of credence even in such a case to give the proper authority for negotiating an arrangement of matters in difference between the two countries? He understood the subject far otherwise; for he believed it proper to authorize the Envoys distinctly, by giving them full powers. If gentlemen will now attend, they may know the terms of this public commission.

Full Powers to Messrs. Pinckney, Marshall, and Gerry, Envoys to France.

JOHN ADAMS, President of the United States of America to all whom these presents shall concern—*Greeting:*

Know ye: That, for the purpose of terminating all differences, between the United States of America and the French Republic, and of restoring and confirming perfect harmony and good understanding, and re-establishing a commercial and friendly intercourse between them, and reposing especial trust and confidence in the integrity, prudence, and ability of Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, citizens of the said United States, I have nominated, and, by and with the advice and consent of the Senate, appointed the said Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic, hereby giving and granting to them, and any and each of them, full power and authority, and also a general and special command, for and in the name of the United States, to meet and confer with the Ministers, Commissioners, or Deputies of the French Republic, being furnished with the like full powers, whether separately or jointly, and with them to treat, consult and negotiate, of and concerning all claims, and all matters and causes of

H. of R.

Conduct of the British Minister.

DECEMBER, 1809.

difference, subsisting between the United States and the French Republic, for the purpose of satisfying and terminating the same in a just and equitable manner; and also of and concerning the general commerce between the United States and France, and all other, the dominions of the French Republic, and to conclude and sign a treaty or treaties, convention or conventions, touching the premises; transmitting the same to the President of the United States of America for his final ratification, by and with the advice and consent of the Senate of the United States, if such advice and consent shall be given.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed.

Given under my hand, at the city of Philadelphia, the twenty-second day of June, in the year of our Lord one thousand seven hundred and ninety-seven, and of the independence of the United States of America the twenty-first.

JOHN ADAMS.

By the President of the United States:

T. PICKERING, *Secretary of State.*

The history of the Government presents further authority. Let us remount to the Administration of the first President of the United States, the man first in war, first in peace, first in the hearts of his countrymen! Mr. Hammond was residing at Philadelphia in character of Minister Plenipotentiary from Great Britain. On the 29th of November, in the year 1791, a letter was addressed to him by the Secretary of State, Mr. Jefferson, who had returned from Europe, where he is well known to have been a Minister from the United States. After adverting to the inexecution of the 7th article of the definitive treaty of peace, and mentioning the sentiment entertained of the friendly movement then "lately made by the Court of London in sending a Minister," the letter contains these expressions:

"Permit me then, sir, to ask, whether you are instructed to give us explanations of the intentions of your Court as to the execution of the article above quoted?"

"With respect to the commerce of the two countries, we have supposed, that we saw, in several instances, regulations on the part of your Government, which, if reciprocally adopted, would materially injure the interests of both nations.

"On this subject, too, I must beg the favor of you to say, whether you are authorized to conclude or negotiate arrangements with us which may fix the commerce between the two countries on principles of reciprocal advantage?"

The correspondence gives us interesting information applicable to the present subject. Under the Administration of the first President of the United States, the inquiry was made by the Secretary of State officially—whether the accredited British Minister Plenipotentiary was authorized to conclude arrangements respecting commerce, or to negotiate such arrangements? Whether he was instructed to explain the intentions of the British Government as to the execution of an article of the definitive treaty of peace?

It does not seem to have been imagined at that time, that the inquiry could be thought to vary in any respect whatever from the honorable principles of diplomatic intercourse. The answer is to

be found in the letter to the Secretary of State from the British Minister Plenipotentiary, bearing date at Philadelphia, the 30th of November, 1791, the next day after the official inquiry was made. Permit me now, sir, to state such parts of this letter as appear the most applicable to the case before us.

"With respect to the non-execution of the 7th article of the definitive treaty of peace between His Britannic Majesty and the United States of America, which you have recalled to my attention, it is scarcely necessary for me to remark to you, sir, that the King, my master, was induced to suspend the execution of that article on his part, in consequence of the non-compliance on the part of the United States with the engagements contained in the 4th, 5th, and 6th articles of the same treaty. These two objects are therefore so materially connected with each other as not to admit of separation, either in the mode of discussing them, or any subsequent arrangements which may result from that discussion."

"In stating to you, sir, this indispensable consideration, I must at the same time assure you, that, in the confidence of experiencing a similar disposition in the Government of the United States, it is His Majesty's desire to remove every ground and occasion of misunderstanding which may arise between the two countries: and in conformity to that disposition in His Majesty I can add that I am instructed to enter into the discussion of all such measures as may be deemed the most practicable and reasonable for giving effect to those stipulations of the definitive treaty, the execution of which has hitherto been delayed as well by the Government of this country as by that of Great Britain."

"In answer to your question on the subject of the commerce of Great Britain and the United States, I can also inform you, sir, that the King is sincerely disposed to promote and facilitate the commercial intercourse between the two countries, and that I am authorized to communicate to this Government His Majesty's readiness to enter into a negotiation for establishing that intercourse upon principles of reciprocal benefit."

"And I trust I may be permitted to add, that it would be the highest object of my ambition to be the humble instrument of contributing, in any manner, to fix upon a permanent basis the future system of harmony and good understanding between the two countries."

Such is the language of the British Minister Plenipotentiary, Mr. Hammond. He does not seem to have suspected any semblance of indecorum in the official inquiry; for he returned an official answer, such as I have just mentioned, on the subjects of the correspondence, and in the same letter mentioned his sense of obliging expressions of personal regard. The next letter which appears in the published correspondence now before me, is also from Mr. Hammond. The letter is so short, and, in point of principle, it has so near relation to the present subject, that the whole will now be stated as it appears in the printed collection.

Mr. Hammond, Minister Plenipotentiary of Great Britain, to Mr. Jefferson, Secretary of State.

SIR: As I am extremely solicitous to avoid any misapprehension of my letter of the 30th ultimo, I have

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

now the honor of stating to you, in explanation of that part of it to which you have adverted in yours of yesterday, that although, as I formerly mentioned in my first conversations with you after my arrival in this country, I am not as yet empowered to *conclude* any definitive arrangement with respect to the commercial intercourse between the two countries, I still meant it to be understood, that I am fully authorized to enter into a negotiation for that purpose, and into the discussion of such principles as may appear best calculated to promote that object on a basis of reciprocal advantage.

I am further authorized to receive any propositions which this Government may be pleased to make to me upon this subject.

I have the honor to be, with every sentiment of respect and esteem, sir, your most obedient and most humble servant,
GEO. HAMMOND.

PHILADELPHIA, December 6, 1791.

In this letter, the distinction is marked between concluding an arrangement and entering into negotiation for that purpose. According to his own statement, although fully authorized to enter into negotiation, the Minister was not empowered to conclude an arrangement respecting the commercial intercourse between the two countries. As to the idea of concluding any definitive commercial arrangement, therefore, there could be no further question under the existing circumstances. The Minister Plenipotentiary had not the competent powers; and nothing ought to be done. And, of course, under the Administration of the first President of the United States, nothing was done. But the British Minister Plenipotentiary undoubtedly believed himself fully authorized to enter into a negotiation; such was his statement, as distinctly made in an official letter to the Secretary of State. What was the consequence? The Secretary of State addressed a letter the next week to the British Minister Plenipotentiary. The letter was short, but very intelligible. Gentlemen are requested to attend to the whole.

Mr. Jefferson, Secretary of State, to Mr. Hammond, Minister Plenipotentiary of Great Britain.

SIR: I have laid before the President of the United States the letters of November 30th, and December 6th, with which you honored me; and in consequence thereof, and particularly of that part of your letter of December 6th, where you say that you are fully authorized to enter into a negotiation for the purpose of arranging the commercial intercourse between the two countries, I have the honor to inform you that I am ready to receive a communication of your full powers for that purpose, at any time you shall think proper, and to proceed immediately to their object.

I have, &c.
TH. JEFFERSON.

PHILADELPHIA, December 13, 1791.

Such was the principle, and such the style, of diplomatic propriety under the Administration of President WASHINGTON. The British Minister Plenipotentiary returned an answer the following day. I will read every part of it as I find it, that gentlemen may judge on a fair view of the whole. Mr. Hammond, Minister Plenipotentiary of Great Britain, to Mr. Jefferson, Secretary of State.

SIR: In answer to your letter of yesterday, I can only repeat what I have before stated in my first con-

versations with you after my arrival, and, subsequently, in my letter of the 6th of this month, viz: that I have no special commission empowering me to *conclude* any definitive arrangement upon the subject of the commercial intercourse between Great Britain and the United States. But that I conceive myself fully competent to enter into a negotiation with this Government for that purpose, in the discussion of the principles which may serve as the basis, and constitute the stipulations of any such definitive arrangement.

This opinion of my competency is founded upon my instructions, inasmuch as they are to regulate my personal conduct, and upon the conviction that the letter of credence from His Majesty investing me with a general *plenipotentiary* character, which I had the honor of presenting to the President of the United States, and his consequent recognition of me in that character, are authorities decidedly adequate to the commencement of a preliminary negotiation.

I have the honor to be, with sentiments of great respect, sir, your most obedient and most humble servant,
GEO. HAMMOND.

PHILADELPHIA, December 14, 1791.

The course of correspondence had now shown that the British Minister Plenipotentiary believed himself fully authorized to act as negotiator, because he had presented his letter of credence to the President of the United States, and been received accordingly; and because, too, he had instructions to regulate his personal conduct, but which he did not think proper to communicate, and which he does not appear to have been at liberty to communicate to the American Government.

If the letter of credence could be regarded as authorizing the negotiation, it had already been presented to the President of the United States. That this did not constitute the competent authority, therefore, must have been decided by the President, beyond controversy, at the date of the letter which invited the British Minister Plenipotentiary to communicate his full powers.

It is now to be recollected that, in his letter of the 30th of November, the Minister had mentioned his being instructed to enter into discussions with respect to articles of a definitive treaty which had been concluded, but not fully executed. According to his own decision, he wanted competent authority to conclude a definitive commercial arrangement between the two countries; and, according to the decision of the first President of the United States, undoubtedly he wanted the competent authority to negotiate such arrangement. Any opinions expressed by the Minister in his letters of the 6th and 14th of December could not be supposed to reverse a decision deliberately formed by President WASHINGTON; and a controversial correspondence relative to such opinions might be worse than useless. Of course, it would accord with expedience, as well as diplomatic decorum, to abstain from remarking on those letters in future correspondence. But to discuss the respective claims and complaints might contribute to a distinct knowledge of the affairs, and undoubtedly the Minister might enter into such discussions. No discussion, however multiplied, could constitute a stipulation for anything to be

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

done on the part of the Government of either country. Accordingly, it is worthy of observation, that the letter of the 14th of December, from the British Minister Plenipotentiary, is not mentioned in the letter of the next day from the Secretary of State, who acknowledges the Minister's letter of the 30th of November, without seeming to recollect anything of the intervening correspondence. I will now state the introductory part of this letter from the Secretary of State.

Mr. Jefferson, Secretary of State, to Mr. Hammond, Minister Plenipotentiary of Great Britain.

SIR: I am to acknowledge the honor of your letter of November 30th, and to express the satisfaction with which we learn that you are instructed to discuss with us the measures which reason and practicability may dictate, for giving effect to the stipulations of our treaty yet remaining to be executed. I can assure you, on the part of the United States, of every disposition to lessen difficulties by passing over whatever is of smaller concern, and insisting on those matters only which either justice to individuals or public policy render indispensable; and, in order to simplify our discussions by defining precisely their objects, I have the honor to propose that we shall begin by specifying, on each side, the particular acts which each considers to have been done by the other in contravention of the treaty. I shall set the example.

PHILADELPHIA, December 15, 1791.

Such authorities we have before us in the political history of our own country.

On considering the resolution from the Senate, the subject does not appear to be placed on the proper basis. I am against the resolution.

On motion of Mr. WHITMAN, the Committee now rose, reported progress, and obtained leave to sit again.

WEDNESDAY, December 20.

Mr. JOHNSON from the Committee of Claims reported unfavorable to the petition of Edward Turner and Thomas Brickell. The reports were severally agreed to.

Mr. LOVE, from the Committee for the District of Columbia, presented a bill to authorize the removal of slaves from one part of the District of Columbia to another; which was read twice, and committed to a Committee of the Whole on Monday next.

An engrossed bill for the relief of William and Elias Rector was read the third time, and passed.

Mr. LOVE, from the Committee for the District of Columbia, presented a bill to amend the charter of Alexandria; which was read twice, and committed to a Committee of the Whole on Monday next.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States," to which they desire the concurrence of the House.

CONDUCT OF THE BRITISH MINISTER.

The House again resolved itself into a Committee of the Whole, on the resolution approving

the conduct of the Executive in refusing to hold further communication with Francis J. Jackson.

Mr. McKEE.—I rise to submit a few remarks on the subject of the resolution now under consideration, in violation of a rule which I had prescribed to myself; which was, to take no part in the public discussions of any general question which might come before this House during the present session—a rule to which I might have adhered, had it not been alleged that those who were opposed to a resolution of last session, approbating the President for the prompt manner in which he met the overture made to this Government by Mr. Erskine, would act inconsistently by supporting the resolution now on your table.

At the opening of the last session of Congress, the President of the United States communicated to us an arrangement entered into between this Government and Mr. Erskine, the representative of the British Government in America, important in itself, and more so when considered as opening the way to a more extended accommodation. The terms of this arrangement were carried fully into effect by the United States, with the expectation that the terms of the agreement thus concluded would have been carried into operation by the British Government. But, sir, it is now found that this arrangement has been disavowed, the Minister by whom it was made recalled, and Mr. Jackson sent to replace him.

This new Minister, in the explanations which he found it necessary to make to this Government of the causes producing the disavowal on the part of Great Britain, thought proper to use and repeat a language highly indecorous and offensive; and out of those circumstances the present question has arisen.

We find, sir, that this new Minister, in the threshold of his correspondence with Mr. Smith, insinuates that the arrangement made with Mr. Erskine, was entered into with bad faith on the part of this Government; for we find the following statement in pages 30 and 31 of the printed documents:

"You state, sir, very truly, that an arrangement had been made between you and Mr. Erskine, and that His Majesty had thought proper to disavow that arrangement.

"I have here, in the outset, to regret the loss of the advantage of verbal intercourse with you, as I should have availed myself of it to inquire whether, by your statement, it were your intention to complain of the disavowal itself, or of a total want of explanation of it, or of the circumstances of that explanation not having been made through me. I observe that in the records of this mission there is no trace of a complaint, on the part of the United States, of His Majesty having disavowed the act of his Minister. You have not, in the conferences we have hitherto held, distinctly announced any such complaint, and I have seen with pleasure, in this forbearance on your part, an instance of that candor, which I doubt not will prevail in all our communications, inasmuch as you could not but have thought it unreasonable to complain of the disavowal of an act done under such circumstances, as could only lead to the consequences that have actually followed."

Mr. Jackson here congratulates himself on the

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

candor and forbearance of Mr. Smith in his failure or refusal to make any complaint whatever of the disavowal of the arrangement made with Mr. Erskine, alleging as a reason for the absence of every trace of complaint on the part of the United States, that the arrangement was made under such circumstances as could only lead to the consequences that have followed. The consequences here alluded to, are a disavowal of the act of Mr. Erskine.

Now, sir, if our Executive negotiated an arrangement with Mr. Erskine or any other Minister, under such circumstances as could only lead to a disavowal of the act, by the Government with whose Minister the arrangement was made, and a knowledge of these circumstances rendered it an act of forbearance and candor to make no complaint whatever of the disavowal—it must necessarily follow, that the arrangement thus made was improperly entered into by this Government; inasmuch as a reliance on this arrangement by our citizens had overspread the ocean with American commerce, which was wafted by every gale to distant regions, all subject to the avarice of British cruisers, and this fact was known to those who administered our Government at the time this delusive arrangement was made. This, sir, appears to me to be the fair inference resulting from this sentence, when divested of its diplomatic flummery and reduced to plain English.

Mr. Jackson seems to find a motive for this insinuation from a communication made by Mr. Erskine to the British Government, which he states that he had submitted to the consideration of Mr. Smith, the three conditions mentioned in Mr. Canning's despatch of the 23d of January, and inasmuch as the arrangement of April is variant from these three conditions, and substituted (as he states) in lieu of them, he hence infers the undoubted right of His Majesty to disavow the arrangement, and solemnly declares that this was the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with this country.

Mr. Smith replies to Mr. Jackson as follows:

"If there be no trace of complaint against the disavowal in the archives of the mission, it is because this Government could not have entered the complaint before the reasons for the disavowal had been explained, and especially as the explanations were justly and confidently expected through the new functionary. And as to the supposed reserve on my part on this subject, in our several conferences, I did imagine, that my repeated intimations to you of the necessity of satisfactory explanations, as to the disavowal, were sufficient indications of the dissatisfaction of this Government with respect to the disavowal itself."

Mr. Smith, in this reply, seems to manifest a surprise that it should be declared that the despatch from Mr. Canning to Mr. Erskine, of the 23d January, was the only one by which that Minister was to regulate his conduct, and this surprise seems the more natural, when, by a reference to the correspondence which took place in

April last between Mr. Smith and Mr. Erskine, at the time the arrangement was concluded, we find Mr. Erskine submitting, conformably to instructions, certain propositions for the consideration of the American Government. This official declaration that Mr. Erskine had received the instructions of his Government justified this Government to proceed with the negotiation, unless, as it is alleged by the gentleman from Connecticut, (Mr. DANA,) it became the indispensable duty of this Government to see and examine Mr. Erskine's powers before any arrangement was concluded with him, inasmuch as a ratification of the arrangement of April last, was not reserved—and several ancient authorities are produced in support of this opinion.

Whatever may be the rule of procedure where one Government, by its representative, makes important concessions to another, or where the terms of the agreement are unreasonable or unequal in themselves, I cannot pretend to answer; but where the terms of the agreement are reasonable and equitable in themselves, it has not been the practice of more modern times to demand a sight of the instructions possessed by the Minister making or proposing to make the arrangement. By a reference to the correspondence which took place between Mr. Pinkney, our Minister at London, and Mr. Canning, in which Mr. Pinkney submits certain propositions to the British Government for their consideration, we do not find that Mr. Pinkney was called on to show his instructions, or interrogated respecting them. His official statement, that he was instructed to make the overture, was then deemed sufficient; and although Mr. Canning did not think proper to accede to the terms proposed by Mr. Pinkney, yet no want of power or authority is alleged as a reason for the refusal on his part.

There seems to be a manifest impropriety in the notion of demanding a sight of instructions in ordinary cases, inasmuch as the act of the Minister, in violation of his instructions, would be obligatory on his Government, according to the usages of nations, where a ratification was reserved, in all cases where the terms of the agreement were reasonable and equitable in themselves. Now, sir, what was acquired by this Government, in the arrangement with Mr. Erskine, unreasonable or unequal? Was anything more obtained than a recognition of our natural and indefeasible right freely to navigate the ocean according to the rules of public law—a right belonging equally to all foreign and independent nations? If, by the arrangement of April last, a ratification had been reserved, the British Government would in good faith have been bound to have ratified the agreement, as no good reason could be assigned for failing to do so.

And, sir, this failure to see and examine Mr. Erskine's instructions is not alleged by Mr. Jackson as a cause or reason why this Government had not a right to complain of the disavowal. From this I infer that the official statement contained in Mr. Erskine's correspondence, that he had instructions, and that he was authorized to

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

make the arrangement, was all that was necessary to be known by this Government before the arrangement was entered into, and that the Secretary of State was necessarily led to believe that Mr. Erskine had other letters of instruction than those contained in Mr. Canning's despatch of the 23d of January last.

Sir, let us now examine Mr. Jackson's reply to Mr. Smith's statement, in which Mr. Smith declares this Government had not a knowledge that the instruction contained in Mr. Canning's despatch of the 23d of January was the only dispatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates, and declares, if this fact had been known at the time the arrangement was made, that it would not have been made.

Mr. Jackson, in his reply to Mr. Smith, declares that Mr. Smith was acquainted with the instruction which was given to Mr. Erskine, and that he had no other instruction than that contained in Mr. Canning's despatch of the 23d of January. Is it possible to conceive a contradiction more positive than that contained in this reply? If a gentleman in his place states any matter of fact to exist, and he is told in reply that the fact stated is untrue, and that his statement was made with a perfect and intimate knowledge of its falsehood, all the world would at once agree he was insulted. And the present case does not differ from the case I put, except that it is obscured with diplomatic verbiage.

But, sir, Mr. Smith in his letter of the 18th of November expresses his dissatisfaction at the liberty taken by Mr. Jackson, and declares such insinuations inadmissible. And what is Mr. Jackson's reply to Mr. Smith? Why, sir, we find in page seventy-one of the printed documents, the following:

"You will find that in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and least of all should I think of uttering an insinuation, where I was unable to substantiate a fact. To facts, such as I have become acquainted with them, I have scrupulously adhered, and in so doing I must continue, whenever the good faith of His Majesty's Government is called in question, to vindicate its honor and dignity, in the manner that appears to me best calculated for that purpose."

What were the insinuations which Mr. Jackson had made? Why, first, that the arrangement negotiated with Mr. Erskine was done under such circumstances as could only lead to a disavowal, and it would have been an act destitute of candor on the part of this Government to make any complaint of that disavowal; and, secondly, that Mr. Smith was perfectly acquainted with Mr. Erskine's instructions, and knew he had but the one instruction contained in Mr. Canning's despatch of the 23d of January. Notwithstanding Mr. Smith positively denies any such knowledge, and complains of such insinuations as inadmissible, yet Mr. Jackson would least of all make an insinuation where he could not

substantiate a fact; and to facts, such as he had become acquainted with them, he had scrupulously adhered, and in so doing would continue!

This, sir, is a justification of all the charges fulminated against this Government by Mr. Jackson, and a notice given that he would continue to charge them with bad faith in the formation of the arrangement, and of possessing a knowledge of Mr. Erskine's instructions, which had been positively denied.

What course was left for the Administration to pursue? Why, sir, either to hang down their ears like the sluggish ass, and bear with patience Mr. Jackson's flippant sarcasms, or cut him off in the manner they have done, and put an end to further opportunities of abusing this Government. The course taken was surely the only proper one; and the question now before us is, whether we will support our Government in the measure thus taken, whatever consequences may grow out of it? I am prepared to say that we will.

It has been stated by the gentleman from Rhode Island, that he did not see where this insult was given. Why, sir, it does appear to my mind as clear and as evident as the light of day is to my sense of sight, from an examination of the documents, that an insult was given to this Government beyond bearing; and I should also think that no man could examine those documents with a determination to give the facts stated their proper weight, who would not make the same discovery. But, sir, according to the old adage, none so blind as him who will not see.

I come now to that part of the subject which principally induced me to rise, which is to show (if I can) that there exists no inconsistency in my opinion on the resolution proposed at the last session by a gentleman from Virginia not now in his place, and the support which I mean to give the present resolution. Indeed, sir, I might retort on the gentleman from Connecticut, inasmuch as he was in favor of the resolution of last session and is now opposed to this. If the two resolutions are substantially similar, he must be inconsistent as well as myself, and it would prove only that we had changed sides. But, sir, I take this change as presenting an irrefutable proof that the two cases are dissimilar, and the intelligence of that gentleman has discovered this fact. The resolution of the last session was merely approbatory of the conduct of the President for the performance of an act which appears to me to have been merely a ministerial one. Congress had vested the President with a power to remove by a proclamation the interdiction of our trade with Great Britain and France, or either of them, on the happening of a particular contingency. The contingency happened, in the opinion of the President, and he discharged his duty. But, sir, the resolution on your table is a pledge on the part of Congress to the President, to the nation, and to the world, that we will support him in the measure which he has taken, whatever consequences may grow out of it.

The gentleman from Connecticut has considered this resolution in the nature of a defiance of

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

war, and that preparations are necessary to meet the event. I do not consider the resolution in this light; neither do I consider it a measure giving any just cause of war to England. But, if it should be made a cause of war, I conceive no previous preparations are necessary. Whenever war is made on this nation, the spirit of patriotism which has been lying dormant for years will be aroused; it will be communicated from one end of this country to the other with the rapidity of the electric fluid; it will convert in an instant the merchants, farmers, mechanics, and yeomanry of your country into citizen soldiers. The immense and almost inexhaustible resources of this country will be rendered active, and like Leonidas and his Grecians, they will defend every inch of ground, and, if without success, that spot of this country where the last hope of liberty deserts them will be their tomb. In what, sir, does the strength of this nation consist? Not in numerous or in large and well appointed fleets; but in the affections of the people to the Government. If the people are with you, your plans can be executed with effect. If they are against you, you are weak and can do nothing with effect. I am therefore in favor of the resolution.

Mr. WHEATON.—Mr. Chairman: Honored with a seat in this House, and called upon to give my vote in the decision of a question important to the nation, it becomes my duty, and a duty which ought not to be resisted by inclination, to submit for consideration some remarks respecting the subject upon which we are to decide; and I indulge the hope that on this, as on every other occasion, our discussions may proceed with coolness and in a manner becoming the Legislature of a free and discerning people, who know what is due to themselves and the rest of mankind.

The resolutions before us, sanctioned by the honorable Senate, now solicit the attention of the Representatives of the American people, and strongly invite them to give their assent to several propositions, deduced from a correspondence lately held between the Secretary of State and the British Minister, Mr. Jackson, relative to the points in dispute between that country and this; and, on their own behalf and that of their constituents, to signify their entire approbation of the determination of the Executive Government resulting therefrom, which put an end to that correspondence.

Notwithstanding the opinions of several honorable gentlemen, manifested on a former occasion in this House, to whom much respect is due, and whose opinions will always have great weight with me when forming my own; yet I cannot but still hold it as a correct principle, that in a Government like ours, springing from and supported by the will of the people, they have a right, and that it is even their duty, on great occasions, to signify their approbation or disapprobation of the conduct pursued, or the measures adopted by those in power. For, as on the one hand it may be the means of correcting an erroneous procedure, so, on the other, it may give life and vigor to a wise and honest policy.

If indeed praise is asked for as an alms, it should always be denied; but when it is well earned and really due, it would not only be illiberal, but unjust, to withhold it. Whether the one or the other be the case in the present instance, we may hazard our own opinions, but the great question will still remain to be decided before the grand tribunal of the public. For, whether we allow of an appeal to the people in this case or not, the people will sustain the appeal, and will finally judge and determine as they shall think proper.

I presume the honorable Senate, who sent us these resolutions, requesting our concurrence in them, did not, and I presume the advocates for the adoption of them in this House, do not wish for expressions of approbation from any one, where they are not sincerely felt. Expressions of approbation may indeed sometimes be compelled, but real approbation cannot; it must be freely given. It cannot be extorted, but by the discovery of the wisdom or propriety of the conduct or measure proposed to be approved.

Although my praise or dispraise, approbation or disapprobation, either as a private citizen or as an individual member of this House, may be considered as of little importance to those who stand in the first ranks in conducting the great concerns of the nation; yet if I could see what has been my anxious wish to see, and what others imagine they do see, that our Executive Government had pursued the wisest and most prudent course relative to the subject embraced by these resolutions, it would be highly gratifying to my pride to be able to furnish a few materials for a monument to their praise. In doing this I should feel as much pleasure and satisfaction as did the poor Egyptian, when gathering together a few splinters of a broken boat as a funeral pile for the great Pompey.

It is but natural that I should be prejudiced in favor of my own country, the country that gave me birth, and in which I have ever since lived, and of the Government I have had some small share in forming; and feel the force of the obligation I am under, by all just and proper means in my power, to promote the interests and happiness of the one, and to give aid and support to the other. I cannot however, under these impressions, and with these objects in view, either feel the necessity, or make myself willing to break through those eternal and immutable obligations, I am under to my God and my fellow men, always to maintain justice and truth. It is my wish to examine with fairness and candor every subject which it shall become my duty to consider, and that my tongue may always be found the true index of my heart.

I know it is a maxim in some Governments, that the supreme power of the State can do no wrong. I believe, however, that this maxim has not received the sanction of experience in any Government. It has sometimes been questioned even in that Government to which these resolutions point; and the resolutions themselves are made to decide against it. I should hardly then have expected, that in this early period of our free

Republic, such a maxim would be received and become current here. May we not yet, sir, humbly and modestly inquire, even though such inquiry should lead to doubt, whether our Executive Government (as this Government is but a creature of our power,) have done right or wrong in the late hasty step they have taken, especially as we are now called upon, and in pretty strong terms too, to approve of it. If we are yet freemen, and retain any of our discriminating faculties, shall we not examine for ourselves before we venture to express our approbation? If we do not, shall we not be in danger of exhibiting to the world the picture of convivial, though tasteless company, over some sparkling adulteration, commending their champaign? For myself, sir, I have examined, and, though with modesty and deference for the opinion of others, I am compelled as an honest man to say that what is proposed in these resolutions does not meet my approbation. In giving my reasons I will state some facts, but carefully avoid drawing conclusions; leaving that to be done by those to whom they may apply.

The belligerents of Europe, anxious to excel in doing each other harm, have both done much harm to us.

The French, it is said, have committed some trespasses on our commercial rights, and, notwithstanding all our gentle entreaties, show little disposition to compensate for the past or desist from future injuries, until having acquired as much power by sea as they have already by land, they shall have been able to send their floating colonies abroad; and then, if we may judge of the probable effects of the one, from what we have seen or heard of the other, we may easily anticipate what kind of redress will be offered us. If we do not like the fate of Copenhagen, we may have that of Switzerland or Spain. Those harps on which we are now playing, we may be obliged to hang upon the willows, bemoan the loss of a stolen President, and, in a different tone, to hail the arrival of a victorious master from the family of the Bonapartes.

The French Minister is still with us, and for aught I have heard, in full communion; and our accustomed communications with, and civilities towards that nation are not interrupted.

For the British Government, sir, I feel no partiality; with British subjects I have no connexion; for the British nation no affection, but such as I ought to feel for all mankind.

From that nation we have endured many wrongs, and made as many complaints. But all the means which the wisdom of our Government has hitherto devised, or her power executed, for redress, have proved ineffectual to the attainment of that desirable object. A different expedient seems now to be contemplated. All communication with that Government through their Minister in this country is now suspended, and the way seems fast preparing for commencing open and avowed hostilities with that nation. How far the nature and magnitude of the wrongs we have suffered, or the prospect of redress, by

having recourse to war, can justify the measure, deserves well to be considered by those who are to make the declaration.

I have no hesitancy in saying, that, according to the common notions of mankind upon such subjects, (I am not much fond of war myself in any case,) the conduct of the British towards the people of this country has in some instances, if not many, been such as to justify forcible resistance; provided, from a due consideration of their situation and our own, we could have a rational prospect, by such resistance, of inducing or compelling them to redress our wrongs and restore our rights. Yet I am not prepared to say that anything has been done or said by the British Minister to Mr. Secretary Smith, so gross and insulting, so far as can be discovered in their late correspondence, as to justify the hasty, and, as I think, injudicious step taken by our Government; much less to induce me solemnly to pledge myself and the people whom I have the honor to represent, to engage in so disastrous a measure as that of war, as recommended in these resolutions if necessary to repel it, however war in the views of any might be justified on other grounds. What, sir, shall we, shall a whole nation go to war, shall thousands of lives be lost, and millions of hard earned property be wasted, because one man imagines, in which imagination he may be, as I think in this case he must be mistaken, that another has made some representations or insinuations that might seem to affect his honor or character? Are you willing, sir, that our sons should thus fall unpitied victims at ambition's shrine? I hope not, sir.

I cannot admit that such an insult was offered by Mr. Jackson as has been imagined, nor could I agree that such should be the consequence if it had been a fact.

After turning over every page and carefully reviewing the whole of the correspondence between Mr. Smith and Mr. Jackson, I have really failed to find what others think they so plainly see.

Mr. Smith, in his letter to Mr. Jackson, of the 9th of October, calls on that Minister for a prompt and explicit explanation of the grounds of refusal on the part of his Government to abide by the arrangement lately made with his predecessor Mr. Erskine. Mr. Jackson, in his letter of the 11th of the same month, replies that, in his examination of the records of Mr. Erskine's mission, he found no traces of complaint, and that he did not hear any express annunciations of it in the several conferences he had had with Mr. Smith, on the part of the United States, of His Majesty's having disavowed the act of his Minister in the case alluded to; and then candidly supposes that this want of complaint by them might be owing to a consciousness that it would be unreasonable to complain of the disavowal of an act done under such circumstances as could only lead to the consequences that had followed. What were these circumstances, as stated by Mr. Jackson? They were these: That Mr. Erskine had not only not conformed with, but had acted in direct contradiction to his instructions in the arrangement he

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

had made; that these instructions were contained in Mr. Canning's despatch to him of the 23d of January, and that that despatch contained the only instructions Mr. Erskine had received relating to that subject, and that those instructions had been made known in substance, though not *in extenso*, to the American Government. Now, can the most jealous eye discover any thing in these assertions of Mr. Jackson that could be offensive to the most squeamish stomach?—unless it be in the last, and that Mr. Smith confesses to be true; and yet some how or other seems strangely to imagine that they contain some inadmissible insinuations, and premonishes him against a repetition. In answer to this, Mr. Jackson says that he had been careful to avoid drawing conclusions that did not necessarily follow from the premises he had advanced, and not to utter an insinuation where he was unable to substantiate a fact. Mr. Smith had asserted that our Government had no knowledge that what was made known of the despatch of the 23d of January was the only authority Mr. Erskine had to make the arrangement in question, and yet, by intimating an opinion that his general authority as Minister Plenipotentiary was sufficient, seems to admit that he might not have had any other special authority for the purpose. Here it would not be strange if the busy meddling mind of man should suggest an inquiry, how it should come to pass that authorities or instructions that were unexhibited and unknown, should be substituted as the basis of an important arrangement, in the place of those that were exhibited, discussed, and rejected. If none had been exhibited and found to be inadmissible, it would not appear so strange if the general authority had been relied on. Mr. Jackson, however, nowhere asserts, that I can find, that our Government knew, at the time of the arrangement with Mr. Erskine, that he had no other instructions or authorities to make it than such as were exhibited, but simply that he knew such to have been the fact, and a fact to which he felt himself bound scrupulously to adhere, in order to vindicate the honor and dignity of his Government whenever its good faith might be called in question upon that point.

In all this I can see nothing but severe civility. And yet this is made the occasion for suddenly breaking off of a correspondence that might have led, however dubious the prospect in the beginning of it, to an amicable adjustment of all the points in dispute between the two countries, and we are now called upon to prepare ourselves for war to avenge the imaginary affront. Not to get redress for the wrongs we have suffered, nor to regain our commercial rights; for I do not perceive that any of these subjects are embraced by the resolutions. To be sure, sir, while I feel that I am an American, I would not agree to submit to the conditions contained in the despatch to Mr. Erskine of the 23d of January, and which were said to have been proposed by our Government; but Mr. Jackson intimates, at least, that the object of the British Government might be attained by the substitution of some others less exceptionable. At any rate, if we cannot, at present, have the offer of terms,

that can be considered by us as admissible, on which to form the basis of a treaty with the British Government; if we cannot at present make any treaty at all with them, we ought not to be hasty in going to war.

It is a plain dictate of reason, and to be found among the precepts of revelation, that any nation even under the greatest pressure, before they go to war, should count the cost. We should estimate the losses to which war with the British may expose us, as well as the amount of our probable gain, as also the means in our power of gaining anything at all. That sentiment contained in the President's Message to Congress at the opening of this session perfectly accords with my own, that, in the midst of the wrongs and vexations experienced from external causes, there is much room for congratulation on the prosperity and happiness flowing from our situation at home; and it may be added that since, by the indulgence of our own Government, our citizens have been permitted to return to that commerce to which they have been accustomed, and with which they are so much delighted, their enterprises have been rewarded by pretty ample returns of gain from abroad.

As an evidence of this, we need only look into our great seaports, and view the hurry and zeal with which our merchants are preparing and sending their vessels to sea, fearing new restrictions and embarrassments from our own Government, more than any orders or decrees originating in foreign countries. So that amidst all our difficulties, our desires do not more exceed our enjoyments, than these exceed those of every other people in the world. To the loss of many, if not all these advantages and blessings a war would expose us. And where would be our gain? The worst passions of the human heart would be called into action, and we should have an increase of nothing but poverty and vice. But it may be worth inquiry, what are our means of going to war? The philosophers of our age and nation have taught us to expect that the happy time would soon come when the unprofitable contest of trying which could do the other the most harm would yield to the superior force of reason. Hence the policy of our Government has not been to make any considerable preparations for war. Our experienced warriors, though eminent, are few; the rest remain to be trained to the art, and perhaps to be born. The timber for rearing up an important navy is yet in our forests and perhaps in the acorn. And I wish we might never have occasion to call for the former or procure the latter. Shall we then, in this situation, go to war with a nation who, for centuries, have made war their trade? Shall we undertake to capture the ships of a nation who have it in their power efficiently to blockade all our ports from Georgia to Maine, and in the course of a few months to sweep from the ocean every vessel we may venture from our harbors?

But if we were to go to war with Britain, and could promise ourselves success in humbling the pride of that haughty nation, should we not, in

H. of R.

Conduct of the British Minister.

DECEMBER, 1809.

hastening her downfall, accelerate the period when we should become the humble vassals of the great master of the world. And then the wrongs we should have to endure would no longer go under the mild name of *trespasses*. We should apply a harsher term, if allowed to give them any name at all.

It may be inquired, what then shall we do? Shall we become slaves to Britain, for fear of the shackles of imperial France? Shall we voluntarily submit to the unreasonable demands of the one, under an apprehension of the severer tyranny of the other? The answer must be, no. We will never agree to be wretched. We will give no quit-claim to anything to which we are entitled, but not madly refuse to enjoy any because we cannot at present enjoy all. Because we cannot now, with safety, traverse the ocean everywhere at pleasure, shall we abandon it entirely, and burn all our vessels for fear of losing them? This would be like the folly of the man, who having had some trespasses committed on his plantation, should magnanimously resolve to fly to the mountains and give up the whole. I would not, in madness, make a voluntary surrender of my corn-field, merely because my orchard had been robbed. Let us make the most of every advantage still in our power. If it be the policy of foreign Governments to lay unjust restrictions on our commerce abroad, let it be the policy of ours to see that it is not shackled with too much regulation at home; leaving our citizens to the quick-sighted guidance of private interest, and they will soon find the path to wealth. The wealth of individuals will become the wealth of the community, to which they belong. In this way we shall grow rich, as a nation. Riches will enable us to be richer still, and being richer still, we shall have the power, and having the power, shall not want the disposition to assert our rights; so shall we become a great and flourishing nation, and so may we continue until Old Time, like Samson in his wrath, shall pluck the pillars that support the world.

It is because I think, and think honestly, that the adoption of these resolutions would have a tendency to bring on a cloudy, if not stormy day, and deprive us of these delightful prospects, that I cannot give them the sanction of my vote.

Mr. JOHNSON.—When I consider it my indispensable duty to address you, I shall apologize neither for the manner, nor the time; and, however feeble my powers, to speak the sentiments of those whose confidence and whose affections have placed me here is a source of happiness which I cannot describe. To be silent on this occasion would do great injustice to the love of national honor and the patriotism of the district I represent, and in fact of the State in which I live. The gentlemen in opposition to the resolution have given an extent to this discussion which has involved our foreign relations with all the world.

I may be permitted, therefore, without being considered prolix, to embrace in my remarks the disavowed arrangement and the events subsequent; nor shall I be considered as wandering from the

subject to review the situation of this country at the time of the disavowed arrangement, and to mention the great events which pressed heavily upon the eve of this period. What was this situation and these pressing and impending events previous to the arrangement? Our embarrassments had never been so great since the Revolution, nor our injuries so numerous, so serious, so aggravated; the political horizon was overshadowed with clouds and darkness—no commercial arrangement existed between Great Britain and the United States; we were bound together by no conventional ties—by no treaty obligation. The commercial part of Jay's Treaty, which conceded so much to England, and which has so justly incurred the execration of the friends of our independence, had expired. We were afloat upon the ocean upon the broad basis of the laws of nations, under which for a few years we were growing in wealth and happiness in a manner that excited the jealousy of Great Britain. She had failed to gain the same advantages by another treaty, and she refused to enter into a reciprocal and liberal one. Failing in this attempt, the laws of nations were disregarded—changed by municipal regulations, and executed by the British cannon—power and necessity became her code of maritime laws, and our commerce and our innocent and independent citizens fell a sacrifice to this system of iniquity.

The subject of impressment, the first in the list of injuries; the colonial trade direct and circuitous; the subject of blockade, by which the civilized world has been closed to our commerce by proclamations on paper; the list of contraband; the search of merchant vessels; depredations in our waters; the attack on the Chesapeake, where a number of our citizens were murdered and some still held in captivity; the British proclamation, holding out farther pretensions upon the subject of impressment than have ever been exercised with all of their nefarious practices; the Orders in Council levying a tribute, a tax, a contribution upon your soil and your property. These were the subjects of dispute, the points of controversy. Atonement for the injuries refused and negotiation on other points had failed. The most sanguine among us gave up all hopes of better times. The crisis was awful, which presented to the American people the alternatives of war, embargo, or disgrace. Our situation was rendered more perilous by the internal divisions at home and the opposition which Constitutional laws met with in many parts of the United States. In this hour of peril and danger, the disavowed arrangement was announced to the people of the United States by our Chief Executive Magistrate—an arrangement which made atonement in part for the murder of our countrymen on board the Chesapeake, offered a prospect of restoring the men now in captivity and exile—which rescinded the Orders in Council as they respected the United States—with a promise of sending a special Minister vested with full powers to conclude a Treaty of Peace. I cannot describe the feelings of the American people at this welcome

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

news, when the agreeable surprise permitted reflection—the prospect of peace made their joy immoderate. A political jubilee was proclaimed. It was fondly hoped that a pledge had been given or a disposition manifested to obviate the insults and wrongs of twenty years in a just and amicable arrangement. The effects of this disavowed arrangement were universal, not confined to one party, nor to one class of citizens. The few who doubted the faith of Great Britain were denounced—no party or politician dared at that time to say, and it could not be said, that Great Britain had surrendered any right, that she had abandoned any principle of equity or the laws of nations; nor that Great Britain had more than atoned for the injuries in which reparation was rendered, nor that Mr. Erskine had been overreached, or that he had compromised the honor of his Government. Not even British emissaries nor the papers supposed to be devoted to the British interest dared to assert any of these positions. There was a difference of opinion with respect to the arrangement in this: that one party contended or thought that it contained the maximum of what we had a right to ask. The other party contended or thought, that it was the minimum of justice, that we had a right to demand more. But all concurred in accepting the arrangement with great joy. This arrangement furnished subject-matter for a very new and interesting discussion, as unexpected as the arrangement. What was this contest which was waged so very warmly? Why, sir, it was who should claim the credit of the arrangement. This was the dispute—forces were marshalled—the newspapers were engaged, and the orators of this House came forth in all their strength. I was also anxious to share a little of the credit, and therefore I put in my little mite with the rest. It was said by some of the opponents to the measures of the Administration and the Government that their opposition had produced the arrangement with Great Britain; and they therefore claimed the credit of the happy change. I could not subscribe to this doctrine, because I could not perceive its reasonableness, and it would have taken from those with whom I acted all the credit for which they contended. It was by others ascribed to the good disposition of Great Britain towards the United States which had ever existed, who said that Great Britain had been prevented from a display of that good disposition to do us justice on account of the partiality of Mr. Jefferson to France and his hostility to England. It was with sorrow, however, sir, that I heard that great and good man called a French partisan, a man who could not be injured by such unfounded charges, and whose name will be inscribed in the temple of renown in indelible letters; not only for his great abilities, but his great goodness. To bring other proof of the good disposition of Great Britain, Mr. Monroe's Treaty and Mr. Rose's mission were called up. It was a great consolation to me, however, that it was admitted by the same persons that Mr. Madison, in whom I have the greatest confidence, was impartial to-

wards the two great belligerents, and therefore entitled to thanks and approbation. Another party, called the Republicans, ascribed the arrangement with Mr. Erskine to the wise and patriotic measures of the Government, and to the events in Europe, which were at that time disastrous to English hopes. I was of this number.

But while we were contemplating this golden age, this era in our history—at a time when the farmer had prepared his grain for market, and promised his impatient creditor speedy payment; when the mechanic expected an additional reward for his labor; when the flag of the honest trader floated in the winds of every region, and the seamen exulted with joy at the return of better times, and the wife and children of a fond husband and affectionate parent cherished a hope of meeting again the dearest object of their affection, detained by British impressment—at this eventful moment it was that the disavowal of that arrangement was announced to blast our hopes, and to put down our pretensions to credit. Laying out of the question past events, we are furnished by this disavowal with subject-matter for another long talk equally as important if not as amusing as the one I have mentioned; old grievances are done away or merged in those of later date.

What is this new subject of discussion—the origin and cause of this disavowal? This involves several questions, viz: whether the disavowal originated in British perfidy or in the mistake or misconduct of D. M. Erskine, Esq., the British Minister—and also an examination of the unwarrantable charge of Mr. Jackson, the dismissed British Minister, by which he endeavored to shift the odium of the disavowal from the King of England to the Executive of the United States.

I shall not enter into a tedious and disgusting detail, but confine myself to the spirit of the correspondence—nor shall I enter into a construction of Mr. Jackson's verbiage and phraseology, but of its obvious and natural import. The disavowal could not have originated in the misconduct of Mr. Erskine, because no gentleman will impute to him an unworthy motive; his high character, his uniform loyalty to his master the King, forbids such an idea. In addition to this, I would call to my aid the doctrine of human nature, and ask what motive could exist in Mr. Erskine to deceive his own Government or the United States? A motive for such conduct does not exist. But on the other hand every honorable consideration, as well as every other rational motive, must have impressed upon his mind the necessity of complying with His Majesty's wishes. His standing as a man of integrity and intelligence, his continuance as Minister in this country, all depended upon a faithful execution of the trust confided to his charge. He must have known that a violation of instructions would only have injured his own country and the United States, in producing a disavowal. The disavowal, therefore, must have originated in the innocent misconception of Mr. Erskine, or in the Punic faith of England.

Upon this subject, I shall think for myself.

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

Leaving out those events which would go to cast odium on the British Cabinet, let me remind the Committee that Mr. Erskine is a man of understanding, a man of integrity, and he still asserts that he acted agreeably to His Majesty's wishes and to the spirit of the instructions given him. I must refer to the declarations of Mr. Erskine in the printed document:

"Under these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning's despatch of the 23d January, which formed but one part of his instructions to me, in the formal manner required, I considered that it would be in vain to lay before the Government of the United States the despatch in question, which I was at liberty to have done *in extenso* had I thought proper: But as I had such strong grounds for believing that the object of His Majesty's Government could be attained, though in a different manner, and the spirit, at least, of my several letters of instructions be fully complied with, I felt a thorough conviction upon my mind that I should be acting in conformity with His Majesty's wishes, and, accordingly, concluded the late provisional agreement on His Majesty's behalf with the Government of the United States."

He states, with candor and sincerity, that when he entered into the arrangements he felt a thorough conviction upon his mind, that he was acting in conformity to his master's wishes, and up to the spirit of his several letters of instructions, if not the letter of them. He also states that he greatly laments that an act of his should produce any embarrassment between the two countries. In a different letter he states that he had no intention to deceive the United States, and regrets the consequences which have resulted from the rejection of the arrangement. I will now speak of the conduct of the Executive, as to the charge brought against him, by Mr. Jackson. I will not condescend to vindicate the Executive. He stands, thank God! above suspicion. His talents, his veracity, his love of country, are above suspicion—I will not speak of motives as applying to him, or I would ask what motive the Executive could have to enter into an arrangement which he knew would be rejected, and produce the mischief which has resulted? 1st. Mr. Erskine declares he did not lay before the Executive or the Secretary of State his instructions. 2nd. On our part the engagement now disavowed was promptly executed by the Executive. All this was known to Mr. Jackson, and every circumstance enumerated should be recollected to interpret the intention of the British Government to insult us through their agent, Mr. Jackson.

From this retrospective summary, let any unprejudiced mind determine whether the disavowal originated in British perfidy or the mistake of Mr. Erskine. To enable us to judge still more correctly, let us attend to the mission of Mr. Jackson, and I am sorry here to state, that I understood the gentleman from Connecticut, (Mr. DANA,) either by his express words, or from the unavoidable conclusion drawn from his premises, to charge the Chief Executive Magistrate with the consequences of the disavowal on the part

of Great Britain, of an equitable arrangement entered into with great solemnity, and which gave no more than our undoubted right, nor as much. I did not hear him cast any censure on the conduct of Mr. Jackson, nor upon the conduct of the British Government in disavowing the act of its Minister. He also admitted that the President had a right Constitutionally to receive foreign Ministers, and might reject them upon reasonable ground. He also stated that the immunity of a public Minister did not allow him to charge our Executive with a falsehood, or to appeal to the people from the Government. These principles being admitted, I listened attentively to hear where the blame was to be placed, on whose shoulders—and to my astonishment, the blame was packed upon the President of the United States, in failing to comply with an incumbent duty, viz: in not demanding the authority of Mr. Erskine to make the arrangement. And many authorities were quoted to prove the failure of duty on the part of the Executive. The gentleman has failed in his attempt, admitting every authority quoted. When a foreign Minister enters into any engagement with any other Government, and the stipulations are to be carried into immediate effect, there the Government has a right to demand the power, or, if you will, the authority of such foreign Minister to conclude an arrangement on the subjects embraced by the compact.

But there is a difference between the power of a public Minister, and his special instructions under the power. It never has been denied that Mr. Erskine had power to make an arrangement on the subjects embraced by the disavowed stipulations. This is acknowledged by Mr. Jackson in the correspondence, by Mr. Canning in his letters, and by all those who support Mr. Jackson and condemn our Executive Government. The President, therefore, demanded and received proper evidence of the power of Mr. Erskine to make arrangements embracing the Orders in Council and the affair of the Chesapeake. Having done this, the President discharged his duty.

Secondly.—Then how does the member from Connecticut make and prove his charge that the President failed in a great and an incumbent duty? The gentleman has ingeniously blended the power or the authority of a public Minister with his special instructions. I would ask that learned member, whether the annals of diplomacy, or the laws of nations, or his Treaty of Westphalia, can furnish an instance where a Government had the right or ever did demand a sight of the special instructions of a foreign Minister? It never has been done of right; it cannot be done. It would be violating the most sacred right of a foreign Minister. If, therefore, special instructions are ever exhibited, it is from courtesy, and from the free will of the Minister instructed. This doctrine is proved by the case under consideration. If we had a right to demand the special instructions of Mr. Erskine, why did Mr. Canning authorize Mr. Erskine to show one despatch to our Government? This is a case in point. The principle is absurd and

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

unreasonable, and cannot bear examination.—When I have so often, therefore, witnessed the moderation of that gentleman, and been so often instructed with his remarks upon the laws of nations, &c., I confess I was pained to the heart to hear a charge of a failure in the President to discharge his duty to this nation, made out by blending the powers of a Minister with his special instructions. I regretted this still more, when I recollected that the same member declared that he would be more unwilling to censure than to approbate the conduct of the President. It might have been useful if, at that time, the learned member had recollected his observations as to the worth of character, made when speaking of the British Minister, and when we were cautioned against its traduction. A failure of duty, therefore, in the President, to demand the instructions of Mr. Erskine at the time of the arrangement, has led to the disavowal and its consequences, by the fair deductions from the gentleman's premises, if not from his express declarations. I would ask, if the President had demanded the special instructions of Mr. Erskine, and they had been produced for inspection, what would have been the consequence? If the President had concurred with the construction of Mr. Erskine, and a disavowal had taken place, as it has already, the hue and cry would have rung throughout the United States. If the President had differed from Mr. Erskine, and had refused the amicable arrangement, denunciations in the voice of thunder would have been proclaimed to the world.

But, the real dispute is, where it ought to be, with Mr. Erskine and his master the King. The charge which Mr. Jackson has made against the Government or the Executive is this: that the President did enter into an arrangement with Mr. Erskine, the British Minister, settling the affair of the Chesapeake and revoking the Orders in Council as they related to the United States, knowing at the time that Mr. Erskine violated his most positive instructions, and that the King would not be bound by the arrangement. The member from Connecticut (Mr. DANA) states that Mr. Madison failed in the performance of an incumbent duty in not demanding the authority of Mr. Erskine, thereby including in that expression his special instructions at the time of the arrangement; and that, therefore, Great Britain was not to blame in disavowing an unauthorized act!

I am sick of this subject, and return to the mission of Mr. Jackson. He is received as the Minister resident and successor of Mr. Erskine. His conduct soon induced the President to require of him written communications to prevent his equivocations. He was vested with no extraordinary power—he had no propositions to make upon the subject of a commercial intercourse, including the Orders in Council; but he was authorized to receive for consideration propositions from us. We, the injured party, must make overtures, and he would listen to them and get the final answer from his master in the mean time!

He stated to our Government in addition that the Orders in Council would not be revoked, but upon three conditions. I almost blush to state those conditions, which were, to purchase rights that belonged to us as a neutral nation.

1. The United States must abandon their restrictive system, non-intercourse, &c., against Great Britain—admit the British navy to our ports and harbors—and continue this system against the commerce of France, her allies and dependencies.

2. That the United States must abandon the colonial trade during the war, direct and circuitous.

3. The British navy must be called in to execute the laws of Congress against our own citizens, viz: the non-intercourse against France, and to capture our merchant vessels going to France, with a declared intention that this measure would be necessary to secure the *bona fide* intention of the United States.

And where did these conditions originate? Whose mind, so sickly and feverish at the prosperity of the United States as to propose them, particularly the last, which asks a formal surrender of one of the attributes of sovereignty? It was first attempted to fix the origin of these propositions on conversations which Mr. Erskine had with Messrs. Madison, Gallatin, and Smith, then heads of departments. This was denied by Mr. Erskine in positive terms, in answer to the inquiries of this Government. He denies that any such concessions or conditions were made or mentioned. It then is attempted to fix the blame of calling in the British navy to execute our laws, upon Mr. Pinkney. To prove it, we call for papers, and how does it appear? That Canning made the proposition to Pinkney, who never sanctioned in any manner such a degrading proposal. The truth is, that these propositions originated and were hatched in the brain of Canning. No other mind, I hope and trust in God, would have been so corrupt and audacious. Lo! we make a great struggle to fix every blame on our Administration, and when that cannot be done, no censure is attached to the foreign Government! Our Administration has been so unfortunate as never to be in the right with some politicians, and some foreign Governments never to be in the wrong. We are thus told that we are not able to execute our laws, and that British cruisers in all their licentiousness must be permitted to capture our own merchantmen; and I suppose the next condition would be, that we should get the British Parliament to make the laws for us, and then the British navy might better execute them—and that we should send our soldiers to the Continent to fight her battles. Omnipotent Orders in Council!

Thus the door to negotiation was closed; unless indeed some should suppose that these conditions should be complied with on our part. These conditions being urged a second time, after they had been rejected with indignation by the Executive, was good cause to have dismissed the British emissary, without waiting for personal insult.

His offer in the case of the Chesapeake was also disgraceful and unacceptable. Keeping in view what has been said, I come to the slanderous charge made by Jackson, the British Minister, against the President of the United States. The British Minister is called on repeatedly to give explanations and reasons for the disavowal of the arrangement with his predecessor. After much equivocation, he commences his task. Not satisfied with charging the disavowal to the mistake of Mr. Erskine in the violation of his instructions, he expressly charges the President with a complete knowledge that Mr. Erskine at the time violated his instructions, and that the President knew it would not be binding on the King his master. He says that no distinct complaint had been made of the disavowal. That he attributes to the candor of the President, to that forbearance arising from a belief that such complaint would be unreasonable. Pages 32, 33, of the printed documents, contain the substance of this charge. This charge was met by the Secretary of State with a positive denial, and with a declaration that the arrangement would not have been made, if Mr. Erskine had informed the President that the three conditions before stated, were the only terms upon which the compact was to be made.

Notwithstanding this denial and declaration, the charge is again repeated. The Secretary of State, feeling a just indignation at the dishonorable insinuation or charge, states it expressly, in such a way that it cannot be misunderstood, and declares to Mr. Jackson that such language was inadmissible. In reply to this admonition, the charge is still persisted in. The Executive had no alternative left, but either to have admitted the truth of the charge, to have taken the insult, or to dismiss the agent.

If it were not known to the world what step had been taken, it would be unnecessary to proclaim it, when the character of the Executive and those associated with him in the Administration is known. Thus, sir, without going into a tedious detail, I have only given the substance, from which you may get the spirit of the correspondence.

I do not think, like some members, that this is a national challenge, a defiance of war—a provocation to hostility. No, sir, it is a solemn declaration, that this nation has been abused and insulted, and that we will maintain the honor and the rights of the people, although it should cast a shade of disgrace over the fame of a foreign Minister. The dismissal of Jackson is the exercise of a sovereign right, recognised by the laws of nations and the law of experience among civilized nations; and Great Britain has no cause of complaint on that account. And should it be made a pretext for aggression, I proclaim it here, I proclaim it to the people whom I represent, and to the American people, that I approve and applaud the conduct of the President in the dismissal of Jackson, the British Minister; that in so doing he has maintained the honor, vindicated the rights, and spurned the insults offered to an independent and patriotic people. He acted with

decision, not with rashness—with a just resentment, not with passion. We may continue to pursue a wavering course until our liberties are destroyed by inviting foreign aggression. Our forbearance has already drawn down upon us the contempt of other Powers, and to this policy we may attribute many of the wrongs we have suffered. You are treated with contumely on the ocean, your citizens are impressed and held in perpetual bondage. Your commerce is destroyed, your flag was torn down and scattered to the winds of heaven in foreign ports, on the 4th of July, the day of our independence; and now, at our own door, at the seat of the Federal Government, a foreign Minister looks your President in the face, and charges him with falsehood—and we are told to submit to it. I am desirous to see this nation grow—nothing can stop its growth. But when I hear members talk about the growth of this nation, and declare that we cannot or ought not to resent the ten thousand wrongs we have suffered, it has often reminded me of a swine confined in his pen—give it corn enough to eat and the animal will grow fat, although you kick and cuff it for your amusement. It is a vulgar comparison, but suitable to such arguments. Let us recollect, that, like the animal, we may grow in fatness; but that fatness may soon be the spoil of others by slaughter.

I was surprised to hear the gentleman from Rhode Island (Mr. POTTER) make a war speech against France and Great Britain. If that gentleman is sincere, will he vote for strong measures of retaliation against both? If so, I will join him. He speaks of those wrongs having been committed continually for fifteen years. Did he vote or would he have voted for letters of marque and reprisal by sea and land against both nations last winter? If so, we should have voted together. But this ill comports with declarations of men in high office at that time, that we had no cause of war with England, and that we should unfurl the republican banners against France. If we cannot contend with other nations upon the ocean, let us be independent upon our own soil; for, our temporizing policy has already given popularity to the British Ministry, and I will venture to assert that no war that could at this time be waged against us would be more calamitous than the pressure we have felt for several years from the rival Powers of Europe. And when we recollect the disastrous consequences of the Revolution to Great Britain, it is presumable no Ministry could carry on a war against us six months, if we were to war it also.

The same member (Mr. POTTER) mentioned that one President (meaning Mr. Adams) had been ruined by resolutions of approbation, and that the leaders expected vacancies for their applause. As that member is better acquainted with those times, and the sentiments of those of whom he speaks, I shall not contradict him; and, as I am a friend to the present Chief Magistrate, I shall recollect his advice, which I hope has originated from a fear that resolutions of approbation would ruin the present President. For

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

my part, sir, I should have been as well satisfied to have expressed these sentiments on any other resolution which would have involved our foreign relations. I should have been as well pleased to have expressed these sentiments on a resolution to send Mr. Jackson home and recall Mr. Pinkney.

It has been said that it would require means perhaps to effect the object of this resolution, and that we shall have to talk of loans, &c. It will not require means unless Great Britain should make it a pretext for further injuries. If that should be the case, and if we must surrender our freedom, or vote means to maintain it, although we might be naked, hungry, and moneyless, I would not hesitate to choose, between slavery and death. And, if it were necessary on such an occasion, and I had talents, I would invoke the States as sisters, united by long suffering, cemented with blood—I would revive the memory of former friendship by invoking the spirit of Seventy-Six, pointing to the glorious achievements of our ancestors—and produce the effects of union by a recital of our wrongs.

Mr. EMOTT said he rose with some reluctance to address the Committee, as the lateness of the hour and the discussion which had taken place led him to believe that gentlemen would not willingly attend to the detail which he had to wade through, but, as he found no person ready to take the floor, he would occupy the time of the Committee in submitting to them his view of the subject.

Sir, said he, the resolution on your table calls upon us to give our assent to two propositions: First, that Mr. Jackson has, in his correspondence with Mr. Smith, insulted the Government, by intimating that the Executive had a knowledge that the arrangement entered into with Mr. Erskine was without authority on his part; and, secondly, that, in refusing to receive any further communications from the English Minister, in consequence of this insult, the Executive has manifested a just regard to the character and interests of the American people. Now, I can agree to neither of these propositions, inasmuch as I have not been able to discover the insult, and as I do not believe that the interest of the people has been consulted in the measure.

In making this declaration, I know I subject myself (not here I hope) to the imputation of being a British apologist and partisan, and of taking part against the Government of my country. But, if the President has his duty to perform, I also, as a Representative, have mine; and although I might have remained silent if his friends had not called up this subject, yet, when I am thus pressed for an opinion, it is my duty to give it fairly, and I will do it. It is not, I trust, necessary, in order to evince my respect for the Government, to approbate every Executive measure, or to join with the Administration in its plans and views. Our present Chief Magistrate will doubtless recollect the time when he did not deem a love of country, and a due regard to its Government, incompatible with a marked disap-

probation of Executive measures, and an earnest opposition to the views of the persons in power. In all this there is nothing to blame, when the opposition proceeds from good motives. I am not in the habit, sir, of making professions, but I will on this occasion say, that I have not a drop of blood running in my veins that is not purely American, and that I have not a wish but for the happiness, the prosperity, and the honor of my country, and the preservation of its Government.

As to the insult, it is said by Mr. Smith, in his letter of the 8th of November, to consist in the use of language on the part of Mr. Jackson, "implying a knowledge in this Government that the instructions of his predecessor did not authorize the arrangement formed by him." Had such language been used by the British Minister, in the commencement of the correspondence, it does not appear to me to follow that it would have been an insult, for it can be no offence for our Government to enter into a provisional arrangement with a resident Minister who has not full power. Nay, had Mr. Erskine shown his instructions of the 23d of January *in extenso*, declaring them to be the only instructions received by him from his Government, and had the terms held out by them been negated by our Executive, as they certainly ought, it would have been competent for the Minister to receive and negotiate on other propositions more just in themselves, and to send the result to his Government for its acceptance. Indeed, this is the view which Mr. Smith himself appears to have taken of the subject. In his letters of the first and eighth of November, he intimates that Mr. Jackson's first letter contained the implications, as he speaks of the repetition of a language conveying the idea that our Executive had a knowledge that the arrangement with Mr. Erskine was without authority, and in both letters the offence is placed in the repetition after the declaration that there was no such knowledge. The same course is adopted by the resolutions, as they omit all mention of Mr. Jackson's first letter, and find the insult in expressions in the letters of the 23d of October and the 4th of November. It is not, therefore, strictly necessary to examine the first letter, but as it has in the debate of this day been much dwelt on by gentlemen who are in favor of the resolution, I shall claim your attention while I, in a brief manner, analyze the entire correspondence.

Before I commence this analysis, permit me, sir, (said Mr. E.,) to observe, that Mr. Jackson is not stated to have made any direct charge, but to have contented himself with insinuations; or, in other words, the insult complained of is a constructive one. Now, as a rule of construction, I understand that when an intent is to be made out, the whole paper is to be taken into consideration. A particular paragraph or phrase, from its generality or its looseness, may convey an impression which was not in the writer's mind. This is especially the case with a correspondence, where there is less caution used than in papers of more permanent use.

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

How unfair it is to play upon words in a correspondence, may be seen by adverting to Mr. Smith's letters, which are certainly drawn with ability, and we are to presume with great care. I take a single paragraph in the letter of the 19th of October, as it relates more immediately to the present discussion:

"The declaration that the despatch from Mr. Canning to Mr. Erskine, of the 23d of January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates, is now for the first time made to this Government. And I need hardly add that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made."

Now, the knowledge of the thing might have been gained in a variety of ways without a declaration. Thus, our Secretary might have had a view of the instructions of Mr. Erskine; there might have been an understanding between them on the subject, or Mr. Smith might have the knowledge of circumstances (without an open avowal by the Minister) which would necessarily have led to the same conclusion. Again, as the Secretary is not the Government, but a mere agent, who, until directed by the President, could not move in the business, the declaration might have been made to Mr. Smith individually before the negotiation, or he might have had full knowledge of the fact, and yet this letter would be true in its terms.

The Secretary declares that if the despatch had been communicated at the time, or if it had been known that Mr. Erskine had no other authority, the arrangement would not have been entered into. Now does he mean to say that the mere communication of the despatch, although accompanied by further instructions and better terms, would have broken up the treaty? and yet this is in the terms of the sentence. Was it necessary that the communication, to have its effect, must have been made at the very time of the arrangement? What, if made before, would this have varied the result? Again, suppose that in point of fact our Government did not absolutely know, but had the strongest possible reason to believe and think, and did in truth believe and think, when the arrangement was made with Mr. Erskine, that he was not authorized, would this form an excuse on their part?

In these criticisms, violence I admit is done to the intent of the writer, and they are made only to show the unfairness of seizing on a word to make out the intent against the intent as collectable from the whole paper. And yet, sir, the British Senate may be told that our Secretary is a man of wit, a maker of puns, a vender of conundrums, and a master of equivocal, and that therefore the intent lies in the terms, and is there to be sought. If they do so reason, however highly I may think of their ingenuity, I shall think little of their logic.

One word more before I take up the communications. I wish not to be understood as standing here the apologist of Mr. Jackson, for the manner in which he conducted this part of the correspondence; nay, I am ready to admit that there is in some of his letters a harshness of expression and a want of courtesy which is not justifiable. But on this I am not called to judge. The Executive has placed the dismissal on a different ground; and by the resolutions we are to pronounce whether the ground taken by him is defensible.

The correspondence on your table was commenced by this Government with a letter from Mr. Smith to Mr. Jackson, in which the Secretary, after stating the arrangement with Mr. Erskine, the disavowal of that arrangement by His Britannic Majesty, and the expectation of this Government that an explanation of the grounds of refusal would have been given by Mr. Jackson, goes on to state that the President understood that the British Minister had no instructions from his Government authorizing him to make any explanation as to the reasons of the disavowal, and calls upon Mr. Jackson to correct this statement if he had been misunderstood.

The letter of Mr. Jackson of the 11th of October, in answer to this call, states that he is not altogether certain whether Mr. Smith meant to complain of the disavowal itself, of a total want of explanation of it, or that the explanation had not been made through him; and, under the influence of this doubt, the letter is continued with a reference to each of these particulars. Speaking of the disavowal, Mr. Jackson remarks, that he had found no trace of complaint on the part of his Government in the records of his predecessor, and that Mr. Smith had not in their conferences distinctly announced any such complaint. He adds, "that he had seen with pleasure in this forbearance on the part of Mr. Smith, an instance of that candor which he did not doubt would prevail in all their communications, inasmuch as Mr. Smith could not but have thought it unreasonable to complain of the disavowal of an act done under such circumstances, as could only lead to the consequences that had actually followed."

It is to this part of the letter that we have been referred for the insult, and very properly, for if it is not to be found here, we shall in vain seek for it elsewhere. It has been urged that when Mr. Jackson declares that the arrangement was made under such circumstances as could only lead to a disavowal, he is to be understood as charging the Executive not only with a knowledge of the instructions of Mr. Erskine, but with dishonorable conduct in procuring with such knowledge his assent to an act which his instructions did not authorize. Now, sir, is this the charitable or fair construction of this sentence? Are there not other circumstances which would equally warrant the disavowal? If the fact is so, that Mr. Erskine not only acted without authority, but against his instructions, who can reasonably question the right in his Government to

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

refuse to recognise his agreement? To solve this point we need not refer ourselves to writers on the laws of nations. The every day doctrine of the rights and duties of principal and agent is sufficient for our purpose. Why then will the Executive insist upon an insinuation which he considers so odious, when the sentence will bear another and a better construction? A construction, too, which will be found necessary to give force to the conclusion, as it is not the circumstance that the instructions were known, but that they were disregarded by the Minister, on which the right to disavow is founded. I like not the feverish apprehension which can so readily discover insult in disguised and veiled insinuations.

I am sensible that another part of the sentence has been enlisted in the cause of the insinuation. Mr. Jackson states, that, in the forbearance of complaint on the part of Mr. Smith, he had witnessed that candor which he did not doubt would prevail in their correspondence, as Mr. Smith could not but have thought it unreasonable to complain of the disavowal. It is material here, in the first place, to ascertain the time to which Mr. Jackson alludes when he refers to Mr. Smith's thoughts. Is the period at which the arrangement was made intended? Not so, surely, because then there was no disavowal of which to complain. The sentence in this point at least is sufficiently clear. Mr. Jackson very distinctly says, that during their conferences Mr. Smith could not but have thought it unreasonable to complain of the disavowal. You will bear it in mind that the conferences were had a short time before the writing of the letter, as Mr. Jackson in it declares, that but a very few days had elapsed since his introduction to the President. Now what were the materials for thinking which Mr. Smith had at the period of the conferences?

From the papers on your table, said Mr. E., you will find that our Minister at London, on the 28th of May, gave our Secretary an account of a conference with Mr. Canning, in which the English Secretary declared that Mr. Erskine had acted not only without authority, but in direct opposition to his instructions, and read the despatch of the 23d of January, the substance of which is contained in Mr. Pinkney's letter. By Mr. Pinkney's letter of the 9th June, it appears that the instructions of Mr. Erskine had been laid before the House of Commons, and a copy of them were then enclosed to our Secretary. In the letter of the 23d June, Mr. Pinkney gives to our Secretary the reasons which Mr. Canning had stated to him for the disavowal. Mr. Smith, in his letter to Mr. Erskine of the 9th August, declares that he had just received from Mr. Pinkney the printed copy of the despatch of Mr. Canning of the 23d of January, and it appears from the letter of Mr. Jackson which I am now testing, that this despatch had been a subject of conversation between him and Mr. Smith.

We have now in review some things which might in the conception of the British Minister have found materials for thinking for our Secretary. He knew the pretensions of the British

Government that its Minister had violated his instructions. He had seen the despatch in its whole extent, and might have compared it with the arrangement. Mr. Jackson thought there was a substantial difference between the instructions and arrangement; and perhaps he had a right therefore to conclude that Mr. Smith did not complain, because, after what had come to his knowledge, he found that the act was done under such circumstances as justified the disavowal—nay, sir, he must at this very time have had in mind the latter part of the letter of Mr. Smith to Mr. Erskine which I have just alluded to, in which, after the conditions in the despatch of the 23d of January are mentioned, our Secretary says—"I forbear to express to you, sir, the surprise that is felt at the extraordinary pretensions set forth in this letter of instructions, and especially at the expectation that this Government would as preliminary recognise conditions, two of which are so manifestly irreconcilable to the dignity and interest of the United States." The Secretary had thus officially volunteered his opinion respecting the difference between the instruction of the 23d January and the arrangement, to the English Legation itself.

If, however, there is yet room for a jaundiced or a jealous mind to suspect an insinuation in the sentence before us, it must be obviated by what immediately follows in the same letter—

"It was not known when I left England, whether Mr. Erskine had, according to the liberty allowed him, communicated to you *in extenso* his original instructions. It now appears that he did not. But, in reverting to his official correspondence, and particularly to a despatch addressed on the 20th of April to His Majesty's Secretary of State for Foreign Affairs, I find that he had submitted to your consideration the three conditions specified in those instructions, as the groundwork of an arrangement, which, according to information received from this country, it was thought in England might be made, with a prospect of great mutual advantage. Mr. Erskine then reports, *verbatim et seriatim*, your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you that these latter were an equivalent for the original conditions; but the very act of substitution evidently shows that those original conditions were, in fact, very explicitly communicated to you; and by you of course laid before the President for his consideration.

"I need hardly add, that the difference between these conditions and those contained in the arrangement of the 18th and 19th April, is sufficiently obvious to require no elucidation; nor need I draw the conclusion, which I consider as admitted by all absence of complaint, on the part of the American Government, viz: that, under such circumstances, His Majesty had an undoubted and incontrovertible right to disavow the act of his Minister. I must here allude to a supposition, which you have more than once mentioned to me, and by which, if it had any the slightest foundation, this right might perhaps in some degree have been affected. You have informed me that you understood that Mr. Erskine had two sets of instructions, by which to regulate his conduct; and that upon one of them, which had not been communicated either to you or to

the public, was to be rested the justification of the terms finally agreed upon between you and him. It is my duty, sir, solemnly to declare to you, and, through you, to the President, that the despatch from Mr. Canning to Mr. Erskine, which you have made the basis of an official correspondence with the latter Minister, and which was read by the former to the American Minister in London, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with this country on the matter to which it relates."

Here we find that Mr. Jackson expressly places the disavowal on the difference in the conditions contained in the instruction and the terms of the arrangement, and again draws his conclusion that under such circumstances the King had a right to disavow the act of his Minister. When speaking of his instruction, he not only admits that Mr. Erskine had not communicated it *in extenso*, but deems it necessary in answer to a suggestion made by Mr. Smith in their conferences, that Mr. Erskine had more than one set of instructions, solemnly to assure our Secretary, and through him, the President, that such was not the case. This declaration is to me utterly irreconcilable with the notion of an insinuation that the Executive of this country knew, at the time of the arrangement, that the British agent was acting without authority. If Mr. Jackson had intended a charge of this kind, he certainly would not thus notice a mere conversation for the sole purpose of giving an official negative to it.

There is one part of the paragraph which I have last read to you which requires a moment's attention, as it has been the subject of some cavil; I allude to that part of the specification of the letter of Mr. Canning in which Mr. Jackson says that Secretary Smith had made it the basis of a correspondence with Mr. Erskine. This is sufficiently explained by reference to the letter from Mr. Smith to Mr. Erskine of the 19th of August. In that letter the despatch is indeed made the basis of a correspondence. It was not so anterior to the arrangement. One observation more, sir, in relation to this letter. It has been urged that in a fair and critical construction of the terms used by Mr. Jackson, it not only does not appear that Mr. Erskine had no authority to conclude the arrangement, but it is justly to be inferred that he had authority. This I confess is not my construction of the letter, but it is surely strange for those who make and profess to believe it, to urge at the same time that Mr. Jackson in the same letter has charged the Government with the knowledge of a matter which he admits to be untrue, that Mr. Erskine acted without authority.

I shall now, for the present, leave the first letter of Mr. Jackson, remarking, that in the part of it which we have had before us, I understand him as proceeding on the hypothesis that our Government asked from him an explanation of the disavowal, and that he attempts to answer such call by referring to the despatch of the 23d of January as containing the only authority of his predecessor, and alleging the disavowal was occasioned by what was regarded on the part of

his Government, a departure from such authority. As to the insinuation attributed to Mr. Jackson, it is not my wish to extenuate, but I have not been able to discover it. If it is in the letter it is a mite too small for my vision.

The next letter in course is that of Mr. Smith of the 19th of October, in which Mr. Jackson is reminded that the President expected "a formal and satisfactory explanation" of the reasons of the disavowal, and he is told that the President "persists in that expectation and in the opinion 'that there has been given no explanation that is adequate either as to the matter or the mode.'" In a subsequent part of the letter, the Secretary goes on to say—"The stress you have laid on 'what you have been pleased to state as the substitution of the terms finally agreed on for the terms first proposed, has excited no small degree of surprise.'" And why did it excite so much surprise in Mr. Smith? Was it that he now, for the first time, had information of the offensive conditions, or that the alleged substitution was considered by him as an imputation on his honesty, or that of the Government? Let him give the answer: "Certain it is that your predecessor did present 'for my consideration the three conditions which 'now appear in the printed documents; that he 'was disposed to urge them more than the nature of two of them (both palpably inadmissible, and one more than merely inadmissible) could 'permit, and that finding his first proposals unsuccessful, the most reasonable terms comprised 'in the arrangement respecting the Orders in 'Council were adopted.'" No, sir, the conditions were not merely shown by Mr. Erskine, but they were pressed by him, and very properly rejected by the Secretary, and other terms finally adopted. And whether you call the proposal a substitution, or by some other name, it was the natural course to be taken.

Mr. Smith then proceeds to say:

"And what, sir, is there in this to countenance the conclusion you have drawn in favor of the right of His Britannic Majesty to disavow the proceeding? Is anything more common in public negotiations than to begin with a higher demand, and, that failing, to descend to a lower? To have, if not two sets of instructions, two or more than two grades of propositions in the same set of instructions; to begin with what is the most desirable, and to end with what is found admissible, in case the more desirable should not be attainable? This must be obvious to every understanding, and it is confirmed by universal experience.

"What were the real and entire instructions given to your predecessor, is a question essentially between him and his Government. That he had, or at least, that he believed he had sufficient authority to conclude the arrangement, his formal assurances, during our discussions, were such as to leave no room for doubt. His subsequent letter of the 15th June, renewing his assurance to me 'That the terms of the agreement so happily concluded by the recent negotiation, will be strictly fulfilled on the part of His Majesty,' is an evident indication of what his persuasion then was as to his instructions. And with a view to show what his impressions have been even since the disavowal, I must take the liberty of referring you to the annexed

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

extracts (See C.) from his official letters of the 31st July, and of the 11th August.

"The declaration 'that the despatch from Mr. Canning to Mr. Erskine, of the 23d January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates,' is now for the first time made to this Government. And I need hardly add, that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made."

I must beg you, sir, here to recollect that when Mr. Smith wrote this letter, he had seen the instructions of the 23d of January, which, though they may be deemed offensive, are precise and clear, and that Mr. Jackson had not only solemnly pledged himself that Mr. Erskine had no other instructions, but had placed the right of disavowal on this very circumstance. Now, in what I have just read to you, I perceive a direct charge of falsehood given by Mr. Smith to Mr. Jackson, inasmuch as the Secretary not only intimates that Mr. Erskine had several sets of instructions, or different grades of propositions in the same instruction, but attempts to make out the charge by Mr. Erskine's assurances and correspondence. In doing this, Mr. Smith insinuates that the British Government has been guilty of perfidy towards this country, in refusing to carry into effect the arrangement, and stamps falsehood on the face of the official acts of that Government. For you will recollect, that, by the letter of Mr. Pinkney of the 28th of May, it appears that Mr. Canning declared to him that Mr. Erskine had acted "not only without authority, but in direct opposition to the most precise instructions," and the Order of Council, of the 24th of May, declares that the agreement "is not such as was authorized by His Majesty's instructions."

I am not about to question the propriety of this measure. It is perhaps right, and it might have been necessary, if the Executive had this impression, to avow it; but it does appear to me that if Mr. Smith deemed this course of correspondence proper and justifiable on his part, he should not have been so ready to take fire at an insinuation not more gross. Let me say too that not perceiving the necessity or utility in the then existing state of things* of the remarks, I do most sincerely regret they were made. Their tendency is certainly not to bring to a happy termination our disputes with Great Britain.

We will now, sir, pass to the reply of Mr. Jackson of the 23d of October. In answer to the renewed call for an explanation of the disavowal, he says: "His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were at the time in substance

'made known to you; no stronger illustration therefore can be given of the deviation from them which occurred than by reference to the terms of your agreement.'

Here again it is said, this evil spirit of insinuation has imbodyed itself, and it has been discovered lurking in the latter sentence in which Mr. Jackson states that the instructions of Mr. Erskine, which with a reference to his former letter, and what follows in this, is declared by the British Minister to rest in the despatch of the 23d of January, were known in substance by Mr. Smith at the time of the arrangement, as he understood not only from the admission of Mr. Smith, but from the deduction in the letter of the 11th of October. Now what is the deduction? By adverting to the letter it will be discovered to rest on the "official correspondence" of Mr. Erskine to his Government. And what are the facts? Mr. Smith in his letter of the 19th of October very fairly admits that the "three conditions" were presented and pressed by Mr. Erskine. But does Mr. Jackson allege in this or any other letter, that when Mr. Erskine gave in the "three conditions" he intimated that he was not authorized to treat on other terms, or that our Government so knew? I can perceive nothing of this. Indeed it would have been much more fair for the Executive to have drawn a contrary admission from this sentence. For, if the "three conditions" were distinctly known, and the British Minister would consent, as he did consent, to adopt terms which did not comport with them, the fair inference is that he must have led our Government to believe that his instructions had "two or more grades of propositions." Why then did the Executive persist in the notion that the mere recital of things known to be true bore with it an insinuation of another fact which is not true?

Permit me now, sir, to read that part of Mr. Jackson's letter which is in answer to the insinuation of double instructions:

"Nothing can be more notorious than the frequency with which, in the course of a complicated negotiation, Ministers are furnished with a graduation of conditions, on which they may be successively authorized to conclude. So common is the case which you put hypothetically, that, in acceding to the justice of your statement, I feel myself impelled to make only one observation upon it, which is, that it does not strike me as bearing upon the consideration of the unauthorized agreement concluded here, inasmuch as in point of fact Mr. Erskine had no such graduated instruction. You are already acquainted with that which was given, and I have had the honor of informing you, that it was the only one by which the conditions on which he was to conclude were prescribed. So far from the terms, which he was actually induced to accept, having been contemplated in that instruction, he himself states that they were substituted by you in lieu of those originally proposed."

Here Mr. Jackson meets the insinuation, not by talking of the respect due to his Government, but by an open and unequivocal denial. "Mr. Erskine had no such graduated instruction." You, sir, he says to Mr. Smith, have never seen the despatch of the 23d January, and although you

might have been induced to think that Mr. Erskine had farther powers, I have informed you, and again repeat, that this is not so. Does not this renewed asseveration afford a strong ground for the belief that Mr. Jackson never had in mind the insinuation with which he is charged? One word, sir, as to what is stated about the substitution. In this, as well as in the former letter, it appears to me that the remark that Mr. Erskine had stated that the terms finally agreed on were substituted in lieu of those originally proposed, is made for the very obvious purpose of showing that in Mr. Erskine's own conception the agreement did not comport with the "three conditions."

In the course of the correspondence the next letter is that of Mr. Smith of the 1st of November, from which I will read a few passages. In answer to the explanation he says—"although the delay and the apparent reluctance in specifying the grounds of the disavowal of the arrangement with respect to the Orders in Council do not correspond with the course of proceeding deemed most becoming the occasion, yet as the explanation has at length been thus made, it only remains as to that part of the disavowed arrangement to regret that such considerations should have been allowed to outweigh the solid objections to the disavowal."

While the disavowal was a matter of discussion, it might be proper to canvass the reasons on which it was attempted to be justified. But after the explanation had been given and recognised by our Government, it was not strictly necessary to intimate, as is here done, that the British Minister had behaved unbecomingly in delaying that explanation, or in evincing a reluctance to give it at all. Besides, sir, as the first letter of Mr. Smith is dated the 9th of October, and the letter of Mr. Jackson is of the 23d of the same month, there was really no great delay, and as to any reluctance, I find in Mr. Jackson's first letter of the 11th of October the same cause assigned for the disavowal as in that of the 23d, with perhaps less force.

The letter of Mr. Smith closes thus:

"I abstain, sir, from making any particular animadversions on several irrelevant and improper allusions, in your letter, not at all comporting with the professed disposition to adjust in an amicable manner the difference unhappily existing between the two countries. But it would be improper to conclude the few observations to which I purposely limit myself, without adverting to your repetition of a language implying a knowledge on the part of this Government that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this Government had no such knowledge, and that with such a knowledge no such arrangement would have been entered into, the view which you have again presented of the subject, makes it my duty to apprise you, that such insinuations are inadmissible in the intercourse of a foreign Minister with a Government that understands what it owes to itself."

Shall I say, sir, that in this part of the letter the Secretary shows such a want of temper, the

expressions used by him are so harsh, that as an American, I have to regret that he ever suffered the paper to pass the threshold of his office? I admire firmness, and when the occasion demands it our public functionaries ought to use the language of complaint and expostulation, nay, even that of crimination, but then it ought to be done in terms which are decorous. To tell a Minister in terms that he has made "several irrelevant and improper allusions in his letter," without specifying wherein, is not using the language even of dignified resentment. And while a negotiation is pending, the adoption of such language must irritate, and, however intended, can have the effect only of bringing it to a disastrous close.

I am now come to Mr. Jackson's last letter, and you will here permit me to repeat, that I feel no inclination to justify the manner in which the correspondence was conducted on his part. The close of this letter in particular is so uncourteous, that but for the letter of Mr. Smith, to which it is in answer, I should call it rude. The charges however made against the British Minister, of conduct unbecoming and improper, in the plainest terms, and without coloring or qualification, invited a reply out of the ordinary course of diplomatic civility.

Mr. Jackson, in his letter of the 4th of November, thus expresses himself:

"I am concerned, sir, to be obliged a second time to appeal to those principles of public law, under the sanction and protection of which I was sent to this country. Where there is not freedom of communication in the form substituted for the more usual one of verbal discussion, there can be little useful intercourse between Ministers; and one at least, of the epithets which you have thought proper to apply to my last letter, is such as necessarily abridges that freedom. That anything therein contained may be irrelevant to the subject, it is of course competent in you to endeavor to show, and as far as you succeed in so doing, in so far will my argument lose of its validity—but as to the propriety of my allusions, you must allow me to acknowledge only the decision of my own Sovereign, whose commands I obey, and to whom alone I can consider myself responsible. Beyond this it suffices that I do not deviate from the respect due to the Government to which I am accredited."

"You will find that in my correspondence with you I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and least of all should I think of uttering an insinuation where I was unable to substantiate a fact. To facts, such as I have become acquainted with them, I have scrupulously adhered, and in so doing I must continue, whenever the good faith of His Majesty's Government is called in question, to vindicate its honor and dignity in the manner that appears to me best calculated for that purpose."

Now, what are the insinuations which Mr. Jackson "had uttered," and the facts he had stated? I find it no where said that he had uttered the insinuation complained of; the charge on the contrary is, that he used a language which, by implication, is said to convey the idea so offensive to our Government. And what, sir, is this language? I have already given it to you in

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

detail, and will only here remark, generally, that I see nothing in it but an adherence to two facts: that the despatch of the 23d of January was the only authority which Mr. Erskine had to conclude an arrangement, and that the "three conditions," forming the substance of that despatch, were known to our Government. Permit me to remark, that if the insinuation is not contained in the former letters, it certainly is not in this.

But it is said that inasmuch as Mr. Smith had charged Mr. Jackson with the insinuation, and as Mr. Jackson makes no denial, but declares that he should not think of uttering an insinuation where he was not able to substantiate a fact, it is an admission of the charge. If we strip the sentence of its severity and rudeness we will perceive that Mr. Jackson, never having uttered the insinuation in terms, must have understood that Mr. Smith perceived it in the statement of the two facts, and as he knew this statement to be correct, he meant to adhere to it, notwithstanding Mr. Smith might draw an inference which did not inevitably flow from it. At best this sentence is equivocal, and our Executive might have understood Mr. Jackson as saying, I did not think of making the insinuation of which you complain, because I am not able to substantiate the fact.

Will any gentleman still say that Mr. Jackson ought explicitly to have renounced his error, to have acknowledged that he did mean the insinuation, and that it was without foundation? If he does so say, he must have forgot the course and temper of this correspondence. Certainly there was nothing in Mr. Smith's last letter which could possibly lead to conciliation or concession. When equals meet, we must expect that harshness will meet harshness, and when one party will permit himself to be uncivil, he must expect incivility, not courtesy or concession, from the other.

I have now done with the correspondence as it relates to the insult. And, sir, lest I may be misunderstood, I will now state that it is not my intention to intimate that our Government knew that Mr. Erskine made the arrangement without authority. My aim has been to show that Mr. Jackson did not use "a language implying a 'knowledge in this Government, that the instructions of his predecessor did not authorize the arrangement formed by him.'" To myself the considerations I have urged are satisfactory.

I will now proceed, sir, (said Mr. E.,) to consider whether the Executive, in refusing to receive any farther communications from the British Minister, has manifested a just regard to the interest of the American people. I have already remarked, that in my opinion the true interest of the country was not consulted in, or promoted by, this measure; it remains then for me to explain the grounds of that opinion.

It would be superfluous in me at this time to attempt to prove that the interest of this country is best promoted by a state of peace and of free intercourse with Great Britain. The mutual wants of the two nations might be brought to

prove this, but the general joy of the country, so audibly expressed at the time it was thought our restrictive system as to that nation was about to be abandoned, is sufficient for my purpose, as it shows as well the general wish as the general sense of the community on this subject. If, then, it is the interest and the wish of the nation to be at peace with Great Britain, it ought to be a primary point in the policy of our Administration to form a treaty with that country on just principles. Matters of etiquette and personal considerations ought to give way to this greater object. I cannot, therefore, think that the interest of the country was promoted by a refusal, in the course of a few days, to communicate with the man who came (ostensibly at least) to form a treaty with us.

It has been remarked, however, that Mr. Jackson had no power to treat, and that, therefore, any farther communication with him could answer no desirable purpose. I will not ask your attention to all that passed between Mr. Smith and Mr. Jackson on this point, but will merely present to you the call which Mr. Smith made for the authority and the answer which Mr. Jackson gave.

Mr. Smith, in his letter of the 1st of November, says:

"For the first time it is now disclosed that the subjects arranged with this Government by your predecessor are held not to be within the authority of a Minister Plenipotentiary, and that, not having had a 'full power distinct from that authority, his transactions on those subjects might of right be disavowed by his Government.' This disclosure, so contrary to every antecedent supposition and just inference, gives a new aspect to this business. If the authority of your predecessor did not embrace the subjects in question, so as to bind his Government, it necessarily follows, that the only credentials yet presented by you being the same with those presented by him, give you no authority to bind it, and that the exhibition of a 'full power' for that purpose, such as you doubtless are furnished with, has become an indispensable preliminary to further negotiation; or, to speak more strictly, was required in the first instance by the view of the matter now disclosed by you. Negotiation without this preliminary would not only be a departure from the principle of equality, which is the essential basis of it, but would moreover be a disregard of the precautions and of the self-respect enjoined on the attention of the United States by the circumstances which have hitherto taken place.

"I need scarcely add, that in the full power alluded to, as a preliminary to negotiation, is not intended to be included either the whole extent or any part of your instructions for the exercise of it. These, of course, as you have justly remarked, remain subject to your own discretion."

To this call Mr. Jackson, in his letter of the 4th of November, answers—

"It will not I dare say have escaped your recollection that I informed you, at a very early period of our communications, that, in addition to the usual credential letter, His Majesty has been pleased to invest me with a full power, under the great seal of his Kingdom, for the express purpose of concluding a treaty or convention. I well remember your testifying your sat-

isfaction at the circumstance, and I have only to add that I am ready, whenever it suits your convenience, to exchange my full power against that with which you shall be provided, for the progress of negotiation."

It is not necessary for me, after the very able and satisfactory explanation which has been given by my friend from Connecticut, (Mr. DANA,) of what is intended by "a full power" in diplomacy, to show the authority it creates. Suffice it to say, that if Mr. Jackson had such authorization he might have concluded a treaty, and that he had I am satisfied. He not only declared that, in addition to his letter of credence, he had a full power under the great seal of England, but offered to produce it. Would such offer have been made if the thing had no existence? If the Executive entertained a suspicion of this kind why did he not take Mr. Jackson at his word? Instead of doing this, the answer of Mr. Smith is a dismissal of the negotiation with the negotiator.

But if Mr. Jackson was empowered to treat, it is suggested that it was on terms derogatory to the honor and inconsistent with the interest of the country, inasmuch as his instructions bound him to insist on the "three conditions" as the basis of his negotiation. One of these conditions you will recollect is the absolute relinquishment of the colonial trade as well indirect as direct, and another is the authorization of the British navy to enforce our non-intercourse system.

Now, on these terms, I never would conclude a treaty with Great Britain. Nay, I can hardly forgive our Secretary for his official assurance to Mr. Erskine, as I find it in the letter of that gentleman to Mr. Smith of the 9th of August—"The third condition you certainly very distinctly informed me could not be recognised by the President, but you added, what had great weight in my mind, that you did not see why any great importance should be attached to such a recognition, because it would be impossible that a citizen of the United States could prefer a complaint to his Government on account of the capture of his vessel while engaged in a trade absolutely interdicted by the laws of his country."

This was certainly granting the right by implication. But, is it true that Mr. Jackson was bound to insist on the three conditions? Let the correspondence answer the question. I know that Mr. Smith, to the end, insisted that he was; but, in my judgment, it is another of his mistakes.

Mr. Smith, in his first letter of the 9th October, states, among other things, that the President had learned, with surprise and regret, that Mr. Jackson had avowed, that, "At all events, it is not the disposition or the intention of the British Government to revoke their Orders in Council, as it respects the United States, but upon a formal stipulation on the part of the United States to accede to the following terms and conditions, viz:

"1. That the act of Congress, commonly called the *non-intercourse law*, be continued against France, so long as she shall continue her decrees;
"2. That the navy of Great Britain be authorized to aid in enforcing the provisions of the said act of Congress;

"3. That the United States shall explicitly renounce, during the present war, the right of carrying on any trade whatever, direct or indirect, with any colony of any enemy of Great Britain, from which they were excluded during peace; and that this renunciation must extend, not only to the trade between the colony and the mother country, but to the trade between the colony and the United States;" and requests Mr. Jackson to correct this statement, if he had been misapprehended.

Mr. Jackson, in his answer of the 11th October, says:

"On the subject of His Majesty's Orders in Council, I have had the honor of informing you that His Majesty, having caused to be made to the Government of the United States certain proposals founded upon principles—some of which were understood to originate in American authorities, and others to be acquiesced in by them—and having afterwards ascertained, in a manner mentioned in a former part of his letter, that the sentiments of the American Government were so different from what they were at first understood to be, I was not instructed to renew to you those proposals, nor to press upon your acceptance an arrangement which had been so recently declined, especially as the arrangement itself is become less important, and the terms of it less applicable to the state of things now existing."

In this sentence, as I read it, there is a sufficient negative to the statement of our Secretary. The proposals, with the three conditions, were made, originally, Mr. Jackson says, because they were supposed acceptable to our Government; but as this was discovered to be founded in mistake, he was instructed not to renew them. Does this look like an adherence to the "three conditions," as the basis of a treaty? But, Mr. Jackson is still more explicit: he was not only instructed not to renew those proposals, but he was even directed not to press upon this Government the acceptance of an arrangement which it had declined. And yet, sir, in contradiction to this statement, it is insisted, that, though Mr. Jackson was not instructed to renew the proposal, or press its acceptance, yet he was bound not to form a treaty which did not embrace the three conditions. Is this a fair deduction? But, in the latter part of the same letter, as if fearful that he might still be misapprehended, Mr. Jackson goes on to say:

"Such, sir, are the grounds on which it has appeared to His Majesty to be unnecessary to command me to propose to the Government of the United States any formal agreement, to be substituted for that which His Majesty has been under the necessity of disavowing; but I am directed to receive and discuss with you any proposal which you may be authorized to make to me on this head.

"As no disposition has hitherto been shown on your part to make any such proposal, it has been impossible for me to state by anticipation (nor was I instructed so to do) what might be the answer that I should eventually think it my duty to return to you; consequently I could not have made, with that view, the statement contained in the fourth section of your letter, and the three subdivisions of it. Such a statement would have been obviously inconsistent with the former part of my

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

overture, which you may correctly record in the third section, viz : that I was not instructed to make to you any proposal whatever upon this subject. I must necessarily reserve, until I hear from you, what proposals it may be deemed proper to make on behalf of the United States ; to state in how far they do or do not accord with the instructions which it has pleased His Majesty to give me for the guidance of this negotiation.

"I will only add, sir, in conclusion of this letter, that His Majesty is very sincerely desirous of maintaining a perfect and cordial understanding with the United States, and of bringing to a complete and satisfactory adjustment all the points of difference that have arisen between the two Governments ; and that, agreeing as I do with you, most heartily, as to the interest which both nations have in fostering a mutual and solid friendship and cordiality, no zeal or exertions shall be wanting on my part to carry into effect His Majesty's commands for this most salutary purpose."

Now, sir, how is this received by our Government ? Are they satisfied with this correction of their statement, and do they proceed to specify their terms ? Let Mr. Smith answer. In his letter of the 19th October, he speaks thus :

"On the subject of the Orders in Council, the President perceives, with sentiments of deep regret, that your instructions contemplate, neither an explanation of the refusal of your Government to fulfil the arrangement of that branch of the existing differences, nor the substitution of any other plan of adjustment, nor any authority to conclude any other arrangement on that subject ; but merely to receive and discuss proposals that might be made to you on the part of the United States ; and these, it appears, must include a stipulation on the part of the United States to relinquish the trade with enemies' colonies, even in branches not hitherto interrupted by British orders for capture, and also a sanction to the enforcing of an act of Congress by the British navy.

"Were the way properly opened for formal propositions from this Government, a known determination on the part of His Britannic Majesty to adhere to such extraordinary pretensions, would preclude the hope of success in such advances, whether regard be had to the conditions themselves, or to the disposition they indicate, in return for the conciliatory temper which has been evinced by the United States."

It is not charitable to think the Secretary could entertain a wish that Mr. Jackson should have authority to discuss on the terms of a treaty without a power to conclude it ; and that such discussion must be a mere play of words, by the introduction of "the three conditions." And, yet, why this renewed statement against the obvious meaning of the terms of Mr. Jackson's last letter ? But I will not further consume your time, by reflections which must suggest themselves to every mind.

Mr. Jackson, in his letter of the 23d October, repeats that he was not authorized to renew proposals already declared unacceptable.

"Beyond this point (says he) my instructions are prospective ; they look to substituting for notions of good understanding, erroneously entertained, practical stipulations on which a real reconciliation of all differences may be substantially founded. And they authorize me not to renew proposals which have already been declared here to be unacceptable, but to receive and

discuss any proposal made on the part of the United States, and eventually to conclude a convention between the two countries. It is not of course intended to call upon me to state, as a preliminary to negotiation, what is the whole extent of those instructions ; they must, as I have before said, remain subject to my own discretion until I am enabled to apply them to the overtures which I may have the honor of receiving from you."

Here, again, we find Mr. Jackson repeating that he did not attempt to renew proposals which had been declared unacceptable. But it has been remarked, that he speaks not of making other proposals, but of receiving propositions from our Government ; and that the usual course of negotiation required him to take the first step. I will not stop to ascertain this point ; but you will recollect, that, by the disavowal, the arrangement was considered by the British Government as at an end ; and, according to Mr. Jackson's statement, he did not come to form another arrangement, adjusting our differences partially, but to conclude a convention, whereby there might be a real reconciliation of all differences between the two countries. Now, as the "three conditions" had been deemed inadmissible by the President, it does not appear to me to have been very exceptionable in Mr. Jackson to say, that, not wishing to propose to us what might be deemed improper, he desires the propositions to come from us originally.

Let us now attend to the reply of Mr. Smith of the 1st November. After speaking of the disavowal, and the reasons assigned for it, he adds, that he has to "regret that such considerations should have been allowed to outweigh the solid objections to the disavowal ; it being understood, at the same time, that His Britannic Majesty perseveres in requiring, as indispensable conditions, on the part of the United States, an entire relinquishment of the right to trade with enemies' colonies, and also a permission to the British navy to aid in executing a law of Congress—pretensions which cannot but render abortive all proposals whatever upon this subject, whether made by the United States or by His Britannic Majesty."

I will close this examination of the correspondence by presenting you with a part of Mr. Jackson's last letter of the 4th of November :

"You say that 'it is understood that His Britannic Majesty perseveres in requiring as indispensable conditions on the part of the United States, an entire relinquishment of the right to trade with the enemies' colonies, and, also, a permission to the British navy to aid in executing a law of Congress.'"

"The same statement is contained in your letter of the 9th instant, and represented as the substance of what had fallen from me in our previous conferences. In my answer to the letter I took the liberty of showing that such a supposition was erroneous, and I have looked in vain to my letter of the 23d, to find in it any suggestion of a similar tenor. I believe, therefore, that by reference to my two letters you will find that the statement now again brought forward, is contained in neither of them ; that it made no part of my previous conversations with you, and that I have in no

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

way given room to suppose I ever made any such statement at all."

"That before the Orders in Council can be revoked, their object must be obtained in some other way, is unquestionably true; but you may be assured, sir, that there is no wish whatever entertained in England that the British navy should be employed in executing a law of Congress. If the proposal that was made upon that subject, and made, as you now know, because it was believed to be acceptable here, had been adopted, and had become a matter of compact between the two countries, and thereby a part, not of the law of Congress, but of the public law, binding upon both parties, and which both would have had a common interest in seeing duly executed; in that case the agency of the British navy would not have had the invidious aspect which is now attempted to be given to it. At present there is no engagement between the two countries, no laws of Congress which bear a reference to any such engagement, and, consequently, it cannot be wished to take any share whatever in the execution of those laws."

"In regard to the colonial trade, I need only to observe that all, or nearly all the enemies' colonies are blockaded by British squadrons; it cannot, therefore, be so much an object of solicitude as you imagine to obtain the relinquishment of the trade of any country to those colonies. On the contrary, you will find it stated in my letter of the 11th ultimo, to be a 'matter of indifference whether the Order in Council on this subject be continued, or an arrangement by mutual consent substituted in its room.'"

In this letter Mr. Jackson is full and precise. He declares that he has been misapprehended by Mr. Smith, as well in the conferences as in his letters, and states in terms, "that there is no wish 'whatever entertained in England that the British navy should be employed in executing a law 'of Congress.'" Thus, then, this offensive condition is most explicitly given up. As to the colonial trade, he observes that its relinquishment by us is not a matter of much solicitude to Great Britain at this day, but yet, that his Government is willing to form an arrangement relative to it. Does he mean by this to be understood as requiring us to make perpetual, by treaty, what is now temporary; to recognise as right, in all its extent, the British rule of 1756? I do not so understand him. You will recollect the arrangement on this subject in Mr. Monroe's treaty. By that the English Government consented to recognise our right to the indirect trade on our relinquishing the direct trade. And certainly, what was conceded to us at a period when the colonial trade was of greater importance than it now is, would not, at this time, be refused in an arrangement.

Is it not, then, to be regretted that at the moment when our Executive had ascertained Mr. Jackson had power to make a treaty, and that his instructions were not limited by the "three conditions," the negotiation should be broken off, under pretence of an insinuation, which, to say no more of it, is doubtful? Did not the interest of the people point to a different course of proceeding?

One part of this letter, I think, has not been fair-

ly understood. I mean the declaration "that before the Orders in Council can be revoked, their object must be obtained in some other way." The object of those orders, we have been informed, is to retaliate on France the effects of her own system, by refusing to her those advantages of commerce which she had forbidden to England. Now, without inquiring who was the original aggressor in this warfare on neutrals, or in any manner attempting to justify the Orders in Council, let me ask, what has been the understanding of our Government on this subject? When the arrangement was made with Mr. Erskine, was it not understood that the non-intercourse law was to take the place of the Orders in Council, and did we not in some degree, by the law of the last session, give effect to this system as against France?

But it has been objected that the British Government is not disposed to treat with us on equal terms. That, however the Minister may have expressed himself, yet it is to be collected from the letter of Mr. Canning, of the 23d of January, containing the three conditions, that they will not form a convention with this country, which does not contain the offensive propositions. Until the publication of Mr. Pinkney's letters, I am willing to confess to you that I had great doubts as to the sincerity of the British Ministry. The propositions stated as coming from our Government through Mr. Erskine, are so extraordinary that I could scarcely believe such information had actually been communicated; but I can no longer doubt, after reading the letter of the 28th of May.

Mr. Pinkney, in that letter, you will recollect, sir, states his interview with Mr. Canning, when the latter declared that Mr. Erskine had violated his instructions, founded on his own letters, in which were set forth the particulars of several conversations that had passed between him and the heads of department here. Among other things, Mr. Canning represented that, from these conversations, it appeared "that, on the subject 'of the Orders in Council, we would have no 'objection, in case they were revoked, as regarded 'the United States, to repeal the embargo and 'non-intercourse laws as to Great Britain, and to 'continue them as to France and Holland, and 'such other countries as should have in force 'maritime edicts similar to those of France, so 'long as those edicts remained; that we would 'allow it to be understood that the British cruisers might capture American vessels attempting 'to violate the embargo and non-intercourse laws 'so modified; that we would even agree to abandon, during the present war, all trade with enemies' colonies from which we were excluded in 'peace.'"

Mr. Pinkney, after giving the substance of the conversations, as mentioned to him by Mr. Canning, adds:

"Mr. Canning proceeded to inform me, that in consequence of these representations, some parts of which he said I had myself confirmed in two conversations in January, he had framed and transmitted to Mr. Erskine two sets of instructions, dated the 23d of that

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

month, but not forwarded till sometime afterwards, the first of which related to the business of the Chesapeake, and the second to the Orders in Council, and the proposed commercial arrangements. These instructions, together with the passages in Mr. Erskine's letter, written, I believe, in December last, which contained the above-mentioned representations, and some other details which I ought not to repeat, Mr. Canning read to me."

After the strong testimony, by our own Minister, that the letter of Mr. Erskine was not only read to him, but that it contained the representations embodied in the instructions of the 23d of January, I can no longer doubt that such representations were really made. This circumstance, too, goes strongly to repel the idea of additional instructions, as Mr. Canning had reason to believe not only that the conditions would be accepted here, but that he was closing with our offer. The letter of the 23d of January, thus explained, is no proof that the British Government is not willing to meet us on fair and honorable terms.

Again, sir, the time for treating was peculiarly favorable to us. We have been led to believe that the disposition of Great Britain is very much regulated by her situation. That, in the moment of success she is haughty, unbending, and severe, and that when overtaken by adverse events, she is gentle and conciliating. Nay, we have heard that the different modifications of the Orders in Council, from more to less severe, is owing to the defeats of the English or their allies, and that we may read the instructions of their Minister here in the passing history of their war with France. Now, the success of Napoleon at Wagram had decided the fate of Continental Europe. The defeat of the Austrians was supposed to place the political existence of their monarch in the hands of the conqueror, and in all probability the subjugation of Spain must follow. Had our Executive waited a few days, he would have found that, by the Treaty of Vienna, the Emperor of Austria had engaged to break off all intercourse with Great Britain, and acceded to the prohibitory system of France. This state of things in Continental Europe certainly made the friendship and good will of this country an object of interest and solicitude with England, and I must believe that, under these circumstances, the interest of the people of this country required an attempt at least to negotiate.

Another reason why I do not think the interest of the people was consulted, is, that the act, under the circumstances in which it now appears, with imputations on the British Government, will necessarily occasion irritation, and render an adjustment of our differences, if not impracticable, at least more difficult. And in this point of view, the adoption of the resolution on your table is more than impolitic. It is throwing the gauntlet to Great Britain, and who that knows the haughty spirit of that nation, who that has perused its history, will answer for it that it will not be taken up? I shudder, sir, while I reflect, that, before we pass on this resolution, the corres-

pondence and dismissal may produce the fatal mandate which will sweep our commerce from the ocean and lay our trading cities in ruins.

Are we prepared for this war? I cannot subscribe to the doctrine of the honorable gentleman from Kentucky, (Mr. JOHNSON,) that we are to meet war, not prepare for it, and that it is in time to fit ourselves for the contest when we are attacked. To persons who inhabit the wilds of our Western country, this doctrine may be correct, as the enemy, before it can reach them, must pass over their neighbors, and thus afford them time to prepare for the conflict. But those who live on the seaboard must, if this system is adopted, be sacrificed. We are without money, without an army, and without a navy. Our fortifications are unfinished and unmanned, and is this a state in which to invite hostility from a nation who has the means and the power at command to injure us? I know, sir, we have great resources, that we can draw forth men and money; but if we must have war, let us begin by preparing for it before we provoke it.

Again, sir, I do not consider the dismissal of the English Minister as comporting with the interest of the people, because it appears to me, taken in connexion with other matters, to be part of a system of hostility towards Great Britain, which is to end in war. On this subject I wish to be understood as not intending to question the views of those who advocate a British war; nay, I know the motives of some of them to be pure. I only question the policy of such a measure. To me it appears pregnant with incalculable evils to this country.

Perhaps my situation renders me unnecessarily sensible on this point, as I represent a State which must immediately and greatly suffer in such a war. It is not to be concealed that the State of New York is in some degree a pledge to Great Britain for the conduct of this country. Our seaboard is yet unprotected, and a British fleet may, at any time, destroy our capital, (our pride and boast,) and convert its vast population into hordes of wandering beggars. On the North we have a frontier of several hundred miles, sparsely settled by industrious husbandmen, who, with their families, will not only be exposed to incursions from Canada, but will be an easy prey to the remorseless savages whose residence approach our borders, and who are perhaps now whetting their knives and their axes.

Permit me, sir, to mention a few of the circumstances which have brought alarm to my mind. The manner in which this mission and Minister were held up to the public by the papers which are in favor of the Administration, is one circumstance. I am not about to charge this on the Administration, for I hope and trust it did not proceed from them. I witnessed it with disgust, as disgraceful to my country, but I witnessed it also with alarm, inasmuch as we are apt to consider the leading prints as so many indices to the feelings and views of our public men. Again, the manner in which the negotiation was conducted by our Government induced me to believe

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

that the object of the Administration is not a treaty with Great Britain. The adherence to what I cannot but view as mistakes, the charges which are exhibited, the warmth of temper discoverable, and the harshness of expression adopted in the correspondence, lead to this conclusion.

Again: the speedy termination of the negotiation on a point not connected with the merits, and the publications in the State paper so near the meeting of Congress, assuming a form almost official, and having a tendency to inflame the public mind against the British Minister and his Government; the introduction of these resolutions, extraordinary in their terms, and without a parallel in the history of this country; the bill in the Senate, by the same hand, providing for the forcible removal of a public Minister who may have been, or shall hereafter be, guilty of a breach of privilege, which (in appearance, at least,) is directed against this very Minister; the various resolutions introduced into this House by the friends of the Administration, hostile in their character and views; all these are circumstances that lead me to believe that the aim and intention of the Administration is a war with Great Britain.

I have much more to say on this subject, but as I am sensible that I have already taken up too much of your time, I will close with repeating, that I cannot give my assent to the resolutions on your table.

—
THURSDAY, December 21.

Mr. POINDESTER, from the committee appointed, on the seventh instant, presented a bill extending jurisdiction, in certain cases, to the Territorial Courts; which was read twice, and committed to a Committee of the Whole on Tuesday next.

Mr. JOHNSON, from the Committee of Claims, presented a bill for the relief of John N. Stout; which was read twice, and committed to a Committee of the Whole on Wednesday next.

Mr. MORROW, from the committee to whom was referred, on the thirteenth instant, the bill sent from the Senate, entitled "An act in addition to the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," reported the agreement of the committee to the said bill, without amendment.

Ordered, That the said bill be committed to a Committee of the Whole on Monday next.

Mr. SOUTHWARD, from the committee appointed on the fifteenth instant, presented a bill to revive and make permanent "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the United States, and to compel the attendance of witnesses," and in addition to the same; which was read twice, and committed to a Committee of the Whole on Tuesday next.

A communication was received from the Secretary of War, stating the situation and state of the different fortifications in the United States.

Objection was made to the reading of this

paper on the ground that it would afford official information to the enemies of the United States, if they had any, of their weakest points.

A question was taken on the reading of it and carried in the affirmative.

After it was read, a motion was made by Mr. TROUP to print it. The motion was supported by himself and Mr. UPHAM, and opposed by Messrs. TALLMADGE and LIVERMORE; and negatived, yeas 32.

The report was referred to the Committee on Fortifications.

On motion of Mr. LOVE,

Resolved, That the Committee for the District of Columbia be directed to inquire into the expediency of amending the "Act for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia."

A Message was received from the President of the United States transmitting a report from the Surveyor of the Public Buildings, of the progress made on them during the last season, and of other explanations relative thereto.—The Message and report were read, and ordered to lie on the table.

A message was received from the Senate which informed the House that the Senate have passed a resolution for the appointment of a joint committee to have the application of the money appropriated by "the act making a farther appropriation for the support of a Library;" to which they desire the concurrence of this House.

CONDUCT OF THE BRITISH MINISTER.

The House again went into Committee of the Whole on the resolution from the Senate.

Mr. EMOTT concluded his speech against it, as given entire in preceding pages.

Mr. GHOLSON said, that notwithstanding much had already been said on the subject before the Committee, he hoped he should be pardoned for occupying a small portion of their attention. The resolution before us seems to embrace several objects pre-eminently entitled to the dispassionate consideration of Congress; objects altogether unconnected with those factions and political dissensions which have unhappily too long prevailed among brethren of the same common family, and which may one day prove fatal to political liberty. The first question which presents itself in the investigation of this subject, involves on the one hand the veracity and dignity of the American Government, and, on the other, the character and reputation of a British Envoy, and, in some degree, of the British Ministry.

In my remarks on this subject, I consider it regular to commence with the origin of the mission from Great Britain to the United States, out of which has arisen the present unpropitious posture of the affairs between the two countries. What, sir, were the circumstances under which that mission was despatched here? In the month of May last, it was known to the British Ministry that a commercial arrangement had been made by their Envoy resident here, (Mr. Erskine,) with the American Government, but under the allegation that it was made contrary to instructions, it

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

was no sooner known than it, and the Minister making it, were disavowed. Mr. Jackson was then appointed to substitute Mr. Erskine, the disavowed agent, and at the time he (Mr. Jackson) was sent to this country, it was well known by the British Ministry that the Government of the United States stood solemnly pledged to the American people to maintain, and that they had inviolably and steadily adhered, to certain points and principles in our differences with England, a surrender of, or departure from which, would be a sacrifice of the honor and best interests of this nation.

Yes, sir, when they well knew that, in the affair of the Chesapeake, our Executive would not, and the voice of almost the whole nation had pronounced that he ought not to make the first advance to a reconciliation, Mr. Jackson was charged, not only to require the first advance from us, to wit: that in the document which should contain the adjustment of that affair, the revocation of the President's proclamation of 1807, interdicting the British armed ships from our own waters, should be recited as an indispensable preliminary; but to require from us also the violation of the principles of our naturalization laws, by insisting on the surrender of foreigners who had become naturalized. As to the Orders in Council, we know not what specific propositions he was charged with in relation to them. As far as we are able to deduce anything from facts before us, it must be understood that the British Government had determined to accept of no conditions for the repeal of the Orders in Council, except such as had been previously declared on the part of the American Government to be inadmissible. Notwithstanding what has been said by the gentleman from New York, (Mr. EMOTT,) I think it is easily to be demonstrated that the British Government did not intend to make any arrangement different from that contemplated by the celebrated instructions of the twenty-third of January, transmitted to Mr. Erskine. If the British Government, so recently as May last, disavowed an arrangement, and recalled its Minister, under an allegation that he violated his instructions, was it to be supposed that they would, in two or three months, so far change their policy as to authorize an arrangement on the same principles that they had just rejected? Certainly not, sir. It is evident that such an accommodation could not have been designed, because Mr. Canning says that such measures must be adopted as should secure the objects of the Orders in Council. That they did not by this mean the mere continuance of the non-intercourse law as to France, is manifest; for Mr. Canning says to Mr. Pinkney, that a repeal, as to Great Britain, would be a repeal as to the whole world, unless the British Navy were to be permitted to enforce the law interdicting intercourse with France by the seizure of such vessels as should be found violating it.

Again: if it was the intention of the British Government to recede from the grounds taken, to wit: the requisition of a continuance of the non-intercourse law as to France, a surrender of

the colonial trade, and allowing the British Navy to enforce a law of the United States, would not the Minister sent here to perfect the arrangement have been instructed to take a different ground from that previously insisted on? It seems to me perfectly clear that he would. From this obvious view of the subject, I hope I shall not be charged with trespassing on that decorum so earnestly recommended by gentlemen on the other side of the House, if I say that Mr. Jackson was sent here both to offer terms and contend for principles insulting to this nation: and I demand of gentlemen whether this conduct can be considered in any other light than as a premeditated insult? They were apprized of the ultimatum of this Government as to the Orders in Council and the affair of the Chesapeake. The terms offered had been declared over and over again by our Government to be such as it could never sanction.

These, sir, were the circumstances under which the mission commenced. What were those that characterized its progress and termination? I think it very easy to show that the conduct of the Minister himself, after he arrived, partook strictly of the same character as the conduct of the Ministry who sent him. I think I have shown that the disposition manifested by the Ministry in sending him here was insulting to this country. Let us next inquire into the character disclosed, and the conduct displayed by that Minister after his arrival. And, in this inquiry, without wading through all the documents, which gentlemen can as well understand by perusing them in their chambers as by hearing them read here, I will merely advert to the offensive expressions used by Mr. Jackson, and to the manner in which those expressions were met by the Secretary of State. By doing this, it will be very discernable, not only that the facts stated in the resolution are sustained by the correspondence, but that the resolution does not go so far as facts would warrant. In Mr. Jackson's letter of the 11th of October, he says, that the arrangement with Mr. Erskine was made under such circumstances as could only lead to a disavowal. If the circumstances were such as could only lead to a disavowal, they must have been dishonorable, and Mr. Jackson, by intimating that our Government had a knowledge of these circumstances, charges it with being *particeps criminis*. Can anything be more palpable than this? He expresses this idea in still stronger terms when he intimates that Mr. Smith had a principal agency in the misconduct on this occasion. It certainly was not in Mr. Smith's power to substitute conditions for those which he declined accepting, but it must have been done by Mr. Erskine. But, notwithstanding this, he charges Mr. Smith, not only with conniving at a conduct improper in itself, because it could only lead to rejection of the arrangement growing out of it, but insinuates that he was the principal actor in the scene. In Mr. Smith's letter in answer to Mr. Jackson, the animadversions are too clear in their object to be mistaken. Mr. J. is informed of the displeasure of the American

Government at such insinuations; and, in the very first letter which was written by the Secretary of State, he disclaims pointedly having had any knowledge whatever of the deficiency of Mr. Erskine's instructions at the time of making the arrangement. And what says Mr. Jackson in reply? He says again, that Mr. Erskine's instructions were known to Mr. Smith. Sir, I acknowledge very candidly, that on a superficial perusal of the correspondence, the charge of falsehood, from the art and adroitness with which it is wrapt up, does not appear so palpable as when it is more closely examined. Yet, sir, notwithstanding all knowledge of the instructions had been denied by Mr. Smith, Mr. Jackson reiterates the assertion that they were known. Do gentlemen say that there is no insult in this? That there is nothing wrong in the assertion of a knowledge on the part of the Secretary of State which he had before formally and solemnly disclaimed. In Mr. Smith's letter to Mr. Jackson, of the first of November, he intimates to Mr. Jackson that a language implying such a knowledge on the part of the American Government, was altogether inadmissible. What is Mr. Jackson's reply in his letter of the 4th of November, which is the last communication that a proper self-respect on the part of the American Government would permit it to receive from him? After again insinuating that our Government had a knowledge of Mr. Erskine's instructions, he says: "That anything therein (in his former letter) contained may be irrelevant to the subject, it is of course competent to you to endeavor to show; and as far as you succeed in so doing, so far will my argument lose of its validity; but, as to the propriety of my allusions, you must allow me to acknowledge only the decision of my own Sovereign, whose commands I obey, and to whom alone I can consider myself responsible." In speaking of the propriety of his allusions, he acknowledges that he had made them, and does not deny that they are of the character ascribed to them. This insolent letter is concluded by expressions too plain for any misconception whatever. He says: "I have carefully avoided drawing conclusions which did not necessarily follow from the premises advanced by me, and least of all, should I think of uttering an insinuation where I was unable to substantiate a fact." He here, in fact, recognises the insinuation imputed to him, and says he would not have made it if he could not have substantiated it. Collecting all his insinuations, on the one hand, and the refutation of them, on the other, I draw the conclusion that Mr. Jackson not only insulted the Government, but charged it with one of the foulest crimes—with direct falsehood.

If the circumstances under which he was sent, and his conduct after he arrived here, were such as I have described, I ask if the occasion does not require that the American Government should take a firm and dignified stand? That we should repel insults and respect ourselves? Shall the authority to whom only is entrusted the most solemn act of government which can be per-

formed, the act of deciding on the last appeal of nations, stand by and see the Executive insulted by an emissary, such as Mr. Jackson was? I hope not, sir.

The gentleman from Connecticut (Mr. DANA) seems to have endeavored to throw the whole blame of the transaction on our own Government, because, he says, the arrangement ought not to have been entered into, Mr. Erskine not having exhibited for that purpose, what is termed in public law, a *full power*; and the gentleman has referred to a variety of authorities to support his doctrine. I would, in my turn, refer that gentleman to the declaration of Mr. Jackson himself to show that Mr. Erskine had what was considered as equivalent to a full power. Says Mr. Jackson, "Never did I imagine, or anywhere attempt to rest the right of disavowal upon that circumstance, (the want of a full power.) His agreement (Mr. Erskine's) would nevertheless have been ratified, had not the instructions, which, in this case, took the place of a full power, been violated." Here is a direct recognition that Mr. Erskine had what was tantamount to a full power; and, indeed, the Government of Great Britain never objected to the arrangement on the ground, that that gentleman had not power to negotiate. It never has been denied, and the disavowal has always been rested on an alleged departure from instructions, which, in fact, admits the power to treat.

As to the observations of the gentleman from New York, (Mr. EMORR,) though it is far from my purpose, and indeed very unnecessary, to endeavor to follow him through them, I think it proper to take notice of one remark made by that gentleman. He perceives in the correspondence between the Secretary of State and Mr. Jackson, what I am utterly unable to perceive, a disposition on the part of our Government, on which he founds the charge of hostility against Great Britain, and a disinclination to treat with her. I can see no such disposition; on the contrary, I have witnessed on the part of the American Government only the greatest forbearance; and I believe it has always been their earnest wish to conclude a treaty with Great Britain on fair and reciprocal terms.

Sir, I consider the present no time for the causeless crimination of our own Government, and much less is it a time to countenance any other. We should discard domestic differences and party spirit, which, at a juncture like this, may be disastrous to our country. If we differ among ourselves, in the name of God let us unite against foreign aggression and foreign insult. It is admitted by gentlemen on the other side, that both Great Britain and France have done us wrong. If so, why not unite against the one as well as against the other? A conduct like this must produce the happiest consequences. If anything like union is discovered against insult and injury, I believe in God that it would not be long ere we met on reciprocal terms of amity. Sir, for my country, I only desire the rule of right; that we must obtain. If it is thought I wish any dis-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

aster to befall the British nation, I am misunderstood. I am willing that Great Britain should be great, happy, and prosperous. I should view her downfall as an inauspicious event; consequences might result from it which I will not undertake to estimate; but I hope that the expectation never will be encouraged from this Hall, that Great Britain can or will receive any terms from us other than such as are fair, honorable, and reciprocal.

The terms which have been offered to us are not of that kind. I submit it to gentlemen's own decision. We have long experienced injustice, and if we are only capable of being firm to our purpose, and adhering to the principles of neutrality which have hitherto guided the councils of our country, and especially the enlightened policy of the Executive department, we shall no doubt obtain justice.

In every view, therefore, it appears to me that the resolution from the Senate not only is supported by the correspondence laid before us, but is rendered peculiarly important by the occasion. The appeal made by Mr. Jackson from the Executive, from the organ with which alone a foreign Minister can have communication, to the people, to a tribunal with which he cannot communicate, adds great force to the arguments in favor of a firm stand on our part. I hope it will be made, and that it never will be abandoned till we receive that justice which has been but too long delayed.

Mr. Ross observed, that it appeared to him that the gentlemen who had preceded him had taken a wider range in debate than the resolution seemed to call for. In all cases of this kind, said he, it would be proper to ascertain our objects; to know the objects of those in favor of the resolution, and of those who are against it. Two gentlemen, in opposition to the resolution, have very candidly declared what are their objects. One of them (Mr. PORTER) has said that he thinks all political questions are not questions of policy, but contests for power between the *ins* and *outs*; not questions how the Government shall be administered, but who shall administer it; not what offices shall be created, but who shall fill them. The other of them, (Mr. EMORY,) says, that he distinguishes between the Government, and the Administration of it. These gentlemen, and the British Minister, no doubt, had different objects; the object of these gentlemen is to degrade the Administration; Mr. Jackson's object was not only to degrade the Administration, but the Government also. I am sorry, I confess, and feel all the passions, of grief, fear, and anger, that such divisions should afflict our councils at this time. I grieve to see such divisions; I fear lest a knowledge of them should have an injurious effect on our foreign relations; and I feel anger and indignation to hear it declared at this critical moment that it is fair and right to pursue measures tending to degrade the Administration of our Government. I do not, and I wish it to be understood that I do not, undertake to quote the precise language of gentlemen, but shall endeavor to state

what were their conclusions, and the tenor of their arguments.

The gentleman from Massachusetts (Mr. WHEATON) was not quite so explicit in his object as the other gentlemen were, but assured us that it was natural that all his partiality should be in favor of his own Government. I would ask then, sir, why does he act so unnaturally? If his position be correct, it is reasonable to suppose that, in this critical period of our affairs, he would act naturally; and, acting as he does now, is a proof to my mind of the truth of the principle asserted by philosophers, that men have no natural partialities at all. If he had stated what were his political partialities, he might have been better understood.

The gentleman from Connecticut (Mr. DANA) has said that it is not sufficient, in deciding a question of this kind, that that decision should be satisfactory to this House and to the American people, but that it is necessary, on a great and important question of the nature of that under consideration, that it should be decided so as to meet the approbation of the whole world; and he asks with an emphasis, is there to be found in the annals of diplomacy a procedure of the nature of that now contemplated? Permit me, sir, to answer this inquiry by asking another question: Can he find in the annals of diplomacy a conduct so completely outraging all decency and decorum as the conduct which is now the subject of our animadversion? For, if a case never before occurred, it is not to be presumed that there is any record of such a case in existence. And, indeed, the presumption, that in diplomatic correspondence, Ministers usually conduct themselves with decorum, is sufficient to induce me to believe that a case similar to this never has before occurred.

Having thus paid my respects to the four gentlemen who preceded me in the opposition, any further observations made by me in reply to them will result from the necessity of clearing my path from the impediments which they may have thrown in my way.

I, for one, am an Administration man, if that Administration act correctly, whether it shall, in a time of great difficulty and doubt, insure a prospect of peace with Great Britain, or whether it may find it necessary in asserting the rights and independence of the Government to involve the nation in war. I think the importance of the one course is as great as the other, and I will, under such circumstances, equally support them when they are likely to make war as to make peace, however other gentlemen may differ from me on this head.

Before I proceed to state, sir, what I conceive necessary to be understood, in order to come to a correct judgment on these resolutions, permit me to premise that there is more than a presumption that Mr. Erskine had a power to enter into the arrangement which he made. 1st. Because he himself declared he had such power. 2dly. Because he acted in conformity to that declaration; and 3dly. Because Mr. Jackson does not deny he had such power. Mr. Jackson does not pretend

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

to say that Mr. Erskine had not other despatches and other instructions than those of the 23d of January, and that, in them, there were not other conditions of a different grade and character from those contained in that despatch. Hence, I think it is fairly to be concluded, that Mr. Erskine had the power to enter into the agreement. It has, however, been said by the gentleman from Connecticut, (Mr. DANA,) that this is not so much a question of what our Government was ignorant of, as of what they knew, or what they ought to have known; and he has entered into a long examination of the mode of commissioning diplomatic characters, whether by letters of credence or by full powers, and has drawn a distinction between the two. In the first place, I apprehend it is in no wise material, to enable the House to decide on the resolution, whether the President did or did not know the nature of Mr. Erskine's powers. But it is necessary to rescue him from the imputation which those are disposed to cast on him who are desirous to pull down the Administration. What was the amount of the gentleman's showing on this occasion? That in all cases, in order to complete a treaty, it is necessary there should be a commission or full power. But has he shown that it is necessary in order to make a preliminary arrangement similar to that entered into? I apprehend he has not. On referring to the letter quoted by him from Mr. Jefferson, then Secretary of State, to Mr. Hammond, we find the former calling upon the latter to exhibit his powers to enter into a negotiation; but Mr. Jefferson afterwards recedes from that demand, and receives the word of Mr. Hammond that he is possessed of power to negotiate as sufficient evidence of his being clothed with the proper power without the exhibition thereof. But the ratification was not withheld, as has been justly said, because there was an absence of a full power on this occasion. Mr. Jackson himself states that this was not the ground on which the ratification was withheld. It must first be proved that it was obligatory on the Executive to call for Mr. Erskine's full power, and it must then be proved that he did not, before his observations can be brought to bear on the question. Where is the proof that the Executive did not call for those powers? It is not pretended that Mr. Erskine had not a power to make an arrangement, but that it was not concluded in pursuance of his instructions. Therefore, if he had produced ten thousand powers, unless his instructions had authorized him to do what he did, the British Ministry would have rejected the terms stipulated for them, as they have done. But why is it necessary to know, on this occasion, whether the President did call for these powers or not? The inquiry composes no part of the resolution; it is neither expressly mentioned nor glanced at; and why this inquiry is raised, I confess I am utterly at a loss to know, unless it was to prove that the President of the United States had a knowledge of the instructions, and that they restricted Mr. Erskine's powers. The gentleman has not ventured to infer that the President of the United

States had this knowledge, but the course of his argument goes to show that, in his opinion, he did possess this knowledge. He lays down the position, that it was the duty of the President to have seen those powers, and, I presume, supposes that the conclusion will be drawn that the President performed his duty; and, of course, taking it for granted that there were no other instructions than those of the 23d of January, that the President must have seen those instructions, and consequently have known that Mr. Erskine had not power to conclude the arrangement. All his argument went to raise a structure to induce a belief in this House, and in the public at large, that this knowledge must have been in possession of the President. The gentleman, at the same time, professes the utmost regard and respect for Mr. Madison. This, I confess, is following the direction of the poet, who says:

"Damn with faint praise, assent with civil leer;

"And, without sneering, teach the rest to sneer."

But let us inquire if the President had any knowledge that Mr. Erskine had no full power; for if I show, beyond all doubt, that the President did not know it, all this insidious fabric, which is designed to produce so many delusions, will vanish at once. I think it is to be presumed that the President had no knowledge that Mr. Erskine had not full powers, because he entered into the arrangement. What object could he have in view which should induce him to conclude an arrangement, except with full confidence of its being carried into effect? Not to get rid of the embargo—that had long before been interred by its fathers with a truly Christian spirit. Not to get rid of the non-intercourse—because the moment the arrangement was disavowed, the President breathed life and spirit into that act, and gave it renewed existence. It was not from any hostile disposition to England, because he could have no reason to wish for a war. And because, if he had desired a war with that country, he had no occasion to seek a pretext therefor, inasmuch as long antecedent, and up to the very time of making the arrangement, the causes for war against Great Britain were great and numerous, as has been agreed by all parties. If not to get rid of the embargo, nor of the non-intercourse, nor for war, what object could he have, with such knowledge as has been imputed to him, not expressly, but by inference, in making the arrangement of April? Will gentlemen be good enough to condescend so far as to assign some object that the Executive could have had in view from such conduct? For it is not to be presumed that men, in or out of office, act without motive and without object. Therefore, hearing no reason assigned why the President should act thus preposterously, as it is attempted to be insinuated he did, by those in opposition, it would be reasonable to conclude that he had no such knowledge. But, in opposition to this insinuation, also, you have the solemn declaration of the President of the United States through the Secretary of State. Humiliating in the extreme must it be to hear

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

this solemn asseveration questioned, even in a side-way, in order to support the insolence of a British Minister! Was it not enough that the country has been enabled to endure, in order to secure the great object of remaining in peace, insult after insult, outrage after outrage, and even that the Government should be insulted by foreign diplomatic characters, without doubts and suspicions being insinuated by members of this House? Pray, sir, let me ask this House, or the whole of the United States, what the President of the United States has ever done in any official character, among the many which he has filled with honor to himself and reputation to his country, that the correctness of his declarations, made through his Minister of State, should be disputed? But I might suffer the humiliation of going still further into this subject. We have the word of the recalled Minister, if that be considered more conclusive by gentlemen than that of the President of the United States, that he did not communicate his instructions to Mr. Smith. We have, 1st. The presumption that the Executive had no knowledge of Mr. Erskine's instructions, because he could have no object in view in concluding an arrangement with that knowledge; 2d. We have his declaration to that effect through the Secretary of State; 3dly. We have the declaration of the Minister, whose act was disavowed, to the same effect. What have we to destroy this proof? The deceptive, poisonous insinuations of Mr. Jackson. Mr. Erskine repeatedly declared that he had ample powers. On the news being received during the last session of the issuing of the order of the 26th April, he declared that he had no doubt his arrangement would be carried into effect. He, to the last moment, declared that he acted in the spirit, if not in the letter, of his several letters of instructions. How, therefore, was it possible for the President to receive information from Mr. Erskine that he was not invested with competent power, when Mr. Erskine himself declared and believed he was, and acted accordingly.

From these considerations I apprehend it most clearly appears that the President of the United States had not a knowledge, neither was it his duty to have had a knowledge that Mr. Erskine did not possess powers to make the arrangement which he did.

It has not been made to appear what were the particular conditions on which Mr. Erskine was to act with respect to the Chesapeake; all that we know on the subject we know from Mr. Jackson; and I must confess that after the evasive and insidious manner in which he conducted in his correspondence in this country, I am disposed for one to give but little credit to him. Pope says somewhere, "the proper study of mankind is man." I know no use of this study, unless the character of men are to have an influence on the opinion which we form of their actions. Mr. Canning's character appears to me to have been such a one as might be expected to produce such a Minister as Mr. Jackson has proved himself. He who would undermine his friend and col-

league, as Mr. Canning did Lord Castlereagh, could not be expected to do better by Mr. Erskine, or to act fairly and honorably with us; and therefore Mr. Jackson, whose abilities, whose insolence, and whose perfidy, had already been proved to be equal to any political project, however dishonorable, was commissioned by Mr. Canning to succeed Mr. Erskine. This observation with respect to the character of Mr. Jackson, I hope will be recollected by the House during the remainder of my observations.

I now come to what I conceive to be the second point, and the great and important point necessary to be decided on this occasion. If the gentleman from Connecticut (Mr. DANA) was really in earnest when he declared to this House that, if the Government of this country had been charged with falsehood and insulted, it was such an indignity as ought to receive the reprobation of every American, I might entertain a hope that he would yet be induced to vote for this resolution. For I think it as clearly demonstrable as anything that could be suggested, not only that Mr. Jackson did make use of those expressions attributed to him, but that he did it with intent to insult the Government.

What are the inquiries which naturally arise under this resolution? 1. Did Mr. Jackson, in his letter of the 23d of October, make use of expressions "conveying the idea that the Executive Government of the United States had a knowledge that the arrangement lately entered into by Mr. Erskine, his predecessor, on behalf of his Government, with the Government of the United States, was entered into without competent powers on the part of Mr. Erskine for that purpose?" If that question be answered in the affirmative, the next question will be, was such an insinuation "highly indecorous and insolent?" These are the two inquiries contained in the first part of the resolution. 3dly. Did he repeat the same intimation in his letter dated the 4th of November, 1809, after he was apprized by the Secretary of State that the Executive Government had no such knowledge, and that if it had possessed such knowledge, such arrangement would not have been entered into on the part of the United States, and after also being officially apprized that such intimation was inadmissible? And if he did, was not such intimation still more insolent and affronting than the first intimation thereof? If I shall be able to show that the first question must be answered in the affirmative, the first, being the only disputed point, will therefore alone require investigation. It is admitted that Mr. Smith did, by his letter of the 19th of October, 1809, inform Mr. Jackson that our Government had no knowledge that Mr. Erskine was not invested with competent authority to make the disavowed arrangement, until they received it from Mr. Jackson, and that if they had been possessed of such knowledge, the arrangement would not have been made. And it is not disputed, nor can it be disputed, that Mr. Smith did, by his letter of the first of November, 1809, inform Mr. Jackson that a language implying a

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

knowledge on the part of our Government that the instructions of Mr. Erskine did not authorize the arrangement made by him, after an explicit asseveration that our Government had no such knowledge, was inadmissible. With these admissions, let us examine the letters of Mr. Jackson, and see if he has not been guilty of the charges contained in the resolution.

In his letter of the 11th October, Mr. Jackson says to the Secretary, "you could not but have thought it unreasonable to complain of an act done under such circumstances as could only lead to the consequences that actually followed." Under what circumstances? Let me ask this House what circumstances could have induced Mr. Smith to have thought that the agreement then entered into would have been disavowed? Let me ask them to rack their inventions to discover any other circumstances than fraud, intrigue, or a knowledge that Mr. Erskine had no power. Can they discover any other reason why Mr. Jackson should make use of this expression? If they cannot, has Mr. Jackson discovered such incapacity as not to be supposed capable of conveying the ideas he intended? Here, then, I think is the groundwork of this resolution, and it is laid in the very first letter of Mr. Jackson. True, sir, that is not the one recited in the resolution; but it is necessary to examine the tenor of the conduct of the gentleman who is alleged to have made the insinuation; and, by attending to the tenor of the paragraph, it will be collected that it was the intention of Mr. Jackson to charge Mr. Smith with a knowledge, at the time of the arrangement, of Mr. Erskine's having exceeded his instructions. In the second paragraph from this sentence, is also an insinuation that our Government might have derived a knowledge of Mr. Erskine's want of powers from Mr. Pinkney, our Minister in London; and I cannot, after reading it with the greatest attention, discover any other view with which that clause was introduced into the letter.

Having thus looked into the first letter, and having, as I conceive, discovered reasonable grounds to say that Mr. Jackson, in the very outset of this correspondence, discovered a disposition to insult our Government by charging them with making an arrangement which they knew must be disavowed, which carried with it the inference that it was done in a dishonorable manner, and, if such be the inference, there is no member who will not say that it was an insult to the country. Let us now see what he says in his letter of the 23d of October; in that Mr. Jackson says: "These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were, at the time, in substance made known to you. No stronger illustration, therefore, can be given of the deviation from them that occurred, than by a reference to the terms of your agreement." How did he come to the knowledge that these instructions were, in substance, made known to Mr. Smith? From what part of this correspondence can any gentleman collect that

Mr. Jackson had a right to draw the conclusion which he did? It is true that Mr. Smith acknowledged that the three conditions had been communicated to him, but no where is there proof that the instructions were made known to him. Mr. Jackson speaks in one place of *conditions*; but where he speaks of the knowledge of Mr. Smith, he says that the *instructions* were, in substance, made known to him. Was it not a substantial part of the despatch of the 23d January, that Mr. Erskine was to receive a concession of those three conditions therein mentioned, before he proceeded to make an arrangement at all? If the substance of that instruction had been communicated to Mr. Smith, he must have known of this material part. I ask what other reasonable and fair conclusion can be drawn from the expressions of Mr. Jackson just read? And does not Mr. Jackson, when he refers to the obvious deduction he made in his letter of the 11th, repeat the offensive passage quoted from that letter by me? In the very next paragraph of his letter of 23d, he says: "You are already acquainted with that (instruction) which was given, and I have had the honor of informing you that it was the only one by which the conditions on which he was to conclude were prescribed." Here it may be observed that Mr. Jackson's language is not so precise that the conclusion may not be drawn that there were other instructions; and therefore, I presume, Mr. Smith is rescued from the imputation attempted to be cast upon him by the gentleman from New York; for I understood his argument to be, that Mr. Jackson might have been guilty of petulance and impropriety, but that Mr. Smith was equally so in suggesting that there was more than one despatch, after Mr. Jackson had asserted to the contrary. Mr. Jackson does not give Mr. Smith that information. He only gives him the information that that was the only despatch which contained the conditions. There is certainly a difference between saying that that was the only despatch, and saying that it was the only despatch which prescribed the conditions. So that Mr. Smith, when he suggests that there was more than one despatch, does not, by any means, contradict what had been said by Mr. Jackson.

That this charge was intended to be made by Mr. Jackson, is put beyond all possibility of doubt by his letter of the 4th of November. Mr. Smith puts a construction on the words contained in Mr. Jackson's letter of the 23d. He calls upon Mr. Jackson for an explanation, and tells him that the Government of the United States understood his allusions to mean so and so; he throws the door wide open for him to explain himself to the Government of the United States. Will gentlemen say that this conduct of Mr. Smith was not that liberal course which should be pursued? What more could any gentlemen do, if he had understood another gentleman's language and terms in a way calculated to give offence, than to call upon that gentleman for an explanation. If the person called upon did explain and say, "sir, you have mistaken my meaning," the subject

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

would be dropped, and friendship and correspondence be renewed. Was this course pursued by Mr. Jackson? No, sir. Mr. Jackson does not say that his meaning was misunderstood, or in any manner whatever deny that the construction put on his language was the true one. I ask gentlemen what stronger proof can there be of Mr. Jackson's having made use of the words with the intent attributed to him? If he did make use of them with that meaning and intent, I ask if, after an explanation has been liberally, and with a forbearance seldom manifested, asked of him and refused, whether a member of this House can doubt the intention of that Minister? Nay, I presume Mr. Jackson himself will not be very thankful to gentlemen for frittering away what he has said, so as to make it appear to have a different meaning from that which he intended. Because, when called on for that purpose, he declined giving any such explanations or constructions to the offensive passages in his letters, as are now attempted to be given by his friends.

The next inquiry under the resolution is, did he reiterate his gross insinuations? He did; and no gentleman can look to the last clause of that letter without saying that Mr. Jackson does reiterate every statement and insinuation he had undertaken to make; he not only forbore to give an explanation, but reiterated his offensive language.

Here, then, sir, I apprehend we have proof of all the facts necessary to the support of this resolution. We have seen the Executive part of our Government insulted by a foreign Minister; and it remains to be seen that that insult was not intended for the man but for the Secretary of State; because I understood, from some expressions which have fallen from gentlemen, that they have a reluctance to involve their country in war for a mere insult to a man. I really feel myself humbled at being compelled to go into this inquiry; but I believe I shall show that Mr. Jackson was not satisfied with insulting the Secretary of State, and through him the Government of the United States, but has given the nation in the course of his correspondence one of the greatest insults that could be given to a people. In his letter of the 23d, he more than insinuates that all honorable and manly resistance is banished from America, thus charging the American people with not having courage, spirit, or honesty enough to resist the French decrees.

"Without minutely calculating what may be the degree of pressure felt at Paris, by the difference in the price of goods, whether landed at Havre or at Hamburg, I will, in my turn, appeal to your judgment, sir, whether it be not a strong and solid reason, worthy to guide the councils of a great and powerful monarch, to set bounds to that spirit of encroachment and universal dominion which would bend all things to its own standard? Is it nothing in the present state of the world, when the agents of France authoritatively announce to their victims 'that Europe is submitting and surrendering,' that the world should know, that there is a nation which by that Divine goodness so strongly appealed to in the paper to which I allude, is

enabled to falsify the assertion? Is it not important at such a moment, that Europe and America should be convinced, that, from whatever countries honorable and manly resistance to such a spirit may have been banished, it will still be found in the Sovereign of the British nation and in the hearts of his subjects?"

What is this but to insinuate that this spirit has been banished from America; that a spirit of resistance is neither to be found in the American Government nor in the hearts of its citizens to the oppressive and domineering power of France? It proves to me beyond all possibility of doubt, that Mr. Jackson came to this country with prejudices and prepossessions with regard to the spirit of the Government, which he found (and I rejoice that he did) were incorrect. He seemed to suppose that we had banished every honorable and manly spirit, and that the British Government might call upon us to bow to whatever idol she might set up; for, sir, calling upon us to agree to the conditions presented was in effect calling upon us to agree that Great Britain should regulate the commerce of the world.

The gentleman from Rhode Island, in an impressive and eloquent manner, spoke of the injuries of the country, and expressed his dissatisfaction at the resolution, inasmuch as it would place the interests of the country at the hazard of a war. I do not know, when a foreign Government has by some means or other imbibed a notion that all honorable and manly spirit is banished from another Government, that she shall be involved in a war with that Government by showing that all honorable and manly spirit is not banished from among us. Therefore, I do not see that the adoption of this resolution would have a tendency to involve us in war. If the gentleman be really sincere in his desire of seeing our rights asserted in a manly manner, I ask him why he should be afraid to assert our rights in the manner proposed by this resolution? Let me ask why we should be afraid of being involved in a war? Our rights have been invaded, our neutral trade destroyed by that domineering Power; and although those gentlemen who are in opposition to this resolution have been generally in favor of protecting these rights, and gentlemen in favor of it have reluctantly protected them, it is strange that the latter should be in favor of strong measures, and that fear should come from the side where it does. Are the opposition more intent on degrading the Administration than in protecting commerce. Shall we lose any rights by war? Will we be deprived of any comforts by it? It is true that it is said that our Treasury is not in a situation to go to war. Will gentlemen calculate the expense of maintaining our rights or revenging our wrongs? I presume as Americans they will not.

It has been said by a gentleman from New York that he is opposed to this resolution, because he conceives that the President did not consult the interest of the United States by breaking off the negotiation. I am perfectly at a loss, sir, to know what the gentleman would have wished him to have done. If it be true that in-

sults have been offered to our Government—and I should suppose that every gentleman looking with a sole eye to discover the meaning of the terms used, would agree with me on this point—I ask what could the Government do? There was no hope that any terms could be agreed upon with Mr. Jackson to which the American Government could subscribe. It has been said that Mr. Jackson was empowered to conclude a convention; but, sir, he only says that he was empowered to receive and discuss such propositions as should be made to him; and in another paragraph he says that the British Government can never cease to maintain the principles of the Orders in Council. When this House has almost unanimously declared that the United States can never submit to the Orders in Council, and the British Government has declared that it never would yield them, I ask what hope could remain of a beneficial effect to be derived from further negotiation, putting out of view the circumstance which imperiously put an end to it?

The gentleman from New York seems to think that the powers of Mr. Jackson are put beyond doubt, because, in his letter of the 23d of October, he says most explicitly that he is authorized to discuss and eventually to conclude a convention. What was the event on the occurrence of which he was to conclude a treaty? On the American Government's subscribing to its own degradation; on its surrendering all those neutral rights, the contending for which placed us in our present situation. Why do gentlemen talk about the danger of involving the nation in a war by the adoption of these resolutions? Are they afraid of being involved in a war in defence of the nation's rights, if these terms and these conditions be prescribed as the ultimatum of the British Government? Subscribe to her conditions, give up your neutral rights, do everything she wishes, and she will be your best friend; she will give you her manufactures and take your money. And if we have no hope of receiving better terms, why should we pocket insult after insult, to effect no real object?

Sir, said Mr. R., I can see nothing to induce the House to refuse to adopt this resolution on the ground that adopting it will produce a war with England—I think it is most devoutly to be wished for in preference to the terms which have been offered to us. The American people must and will rouse from their slumbers; they must defend their rights and support their Government; and not only that, they must and will discriminate between their friends and their enemies. The crisis is fast approaching to this event, and it requires no penetration to see that ere long such a course will have to be adopted. Is it not important that this resolution should be adopted on this momentous occasion? Will it have no effect at a time when strength ought to be given to the Administration? Will it not nerve the arm and give confidence to the heart of the Executive to guide the vessel of State? It appears to me its adoption will produce very beneficial effects, by showing to the world that

undiminished confidence is placed in the Administration of our Government.

I have thus endeavored to show, as far as my feeble abilities would enable me, that we are not only justified in adopting this resolution, as respects the truth of the facts it states, but by expediency and propriety also. I have perhaps trespassed on the attention of the Committee for too great a portion of their time, but I hope to be excused by the importance of the subject.

On motion of Mr. UPHAM, the Committee rose and obtained leave to sit again.

FRIDAY, December 22.

Mr. POYDRAS presented a memorial of sundry inhabitants of Point Coupée, in the Territory of Orleans, praying, for reasons therein set forth, to be confirmed in their title to a certain piece of land lying on the Mississippi river, near said Point Coupée, or that such other measures may be adopted to secure the title to the petitioners as shall appear reasonable and proper.—Referred to the Committee on the Public Lands.

Mr. LOVE, from the Committee for the District of Columbia, presented a bill to incorporate the Trustees of Washington College; which was read twice, and committed to a Committee of the Whole on Wednesday next.

Mr. HELMS, from the committee appointed on the eighth instant, presented a bill for the relief of Harry Caldwell and Amasa Jackson; which was read twice, and committed to a Committee of the Whole on Wednesday next.

Ordered That the message received yesterday, communicating a report of the Surveyor of the Public Buildings, be referred to Mr. LEWIS, Mr. STANFORD, Mr. LIVERMORE, Mr. ROOT, and Mr. J. BROWN, to consider and report thereon to the House.

The bill sent from the Senate, entitled "An act to prevent the abuse of the privileges and immunities enjoyed by foreign Ministers within the United States," was read twice and committed to a Committee of the Whole on Tuesday next.

The House proceeded to consider the resolution from the Senate, for the appointment of a joint committee to have the application of the money appropriated by the "act making a further appropriation for the support of a Library;" and the same being twice read, was agreed to by the House.

Ordered, That Mr. DANA, Mr. NEWTON, and Mr. SEYBERT, be appointed of the said committee, on the part of this House.

CONTESTED ELECTION.

Mr. FINDLEY, from the Committee of Elections, to whom was referred the petition of Thomas Randolph, praying that the seat of JONATHAN JENNINGS, the sitting Delegate from the Territory of Indiana, be vacated, made a detailed report in favor of the petition, and recommending to the House the adoption of a resolution that the election, having been illegal, is therefore void, and that the seat of JONATHAN JENNINGS ought to be vacated. The report was referred to a Committee of the Whole House.

DECEMBER, 1809.

Indiana Contested Election.

H. OF R.

The report is as follows:—

The committee report: That they have maturely examined the documents committed to them by the House, and also the allegations of the petitioner and of the sitting Delegate. The documents are,

1st. The official certificate of the Governor of the Territory of Indiana, testifying that Jonathan Jennings was, on the 22d day of May, 1809, duly elected a Delegate to Congress for that Territory.

2d. A memorial of Thomas Randolph, praying that the seat of Jonathan Jennings may be vacated, for the following reasons, to wit. That though it does appear, by the official return, that Jonathan Jennings had a majority of thirty-nine votes, there ought, in the opinion of the petitioner, to be deducted from the votes counted by the sitting member ninety-one votes taken in the seventh district of Dearborn, the returned copy of which was not certified by the poll-keepers, as the law directs; and also that two districts in the said county of Dearborn were prevented from voting, through the omission or mistake of the sheriff, who did not appoint deputies to be judges of the election, or whose appointment was not attended to as it ought to have been; in which districts the petitioner is of opinion that he could have had the majority of votes.

The petitioner further states that it is not his intention on these grounds to claim a seat in this House, when in fact he had not a majority of votes, but that it is his wish that the voice of the people should be legally and truly heard; and, in support of the prayer of his petition, he refers to the memorial of the Legislature of the Territory, transmitted to the House, and referred to the Committee of Elections.

3d. A document purporting to be a petition of the Legislative Council and members elected to serve in the House of Representatives, and not objected to by the parties, states that, from a deliberate view of the act of Congress dividing the Northwestern Territory, the ordinance for the government of the Indiana Territory, regulating elections, and the law of Congress extending the right of suffrage to the citizens of the Territory, they find that considerable doubt existed in the minds of the minority with respect to the constitutionality of the meeting of the General Assembly of the Territory. And they further state that, in the year 1805, there was a Legislature organized under the law dividing the Territory northwest of the Ohio river: that, in the year 1808, the Governor dissolved the said Legislature: that, on the 3d day of February, 1809, the law of Congress dividing the Indiana Territory was enacted: that, on the 4th day of April, 1809, the Governor issued his proclamation for the election of an additional number of members of the Legislature, sufficient to supply the place of those struck off by the division of the Territory, corresponding with the law of 1805, on the authority of which the General Assembly was first organized, viz: eight Representatives. But the law passed the 27th of February, 1809, extending the right of suffrage to the citizens of Indiana, declares how the Legislature shall be organized, after the passage of the said law, that is, that the General Assembly shall apportion the members to the House of Representatives to consist of not less than nine, nor more than twelve members. That the law was evidently predicated on the principle that a Legislature was in existence at the time of its passage, or that a Legislature might be convened under the authority of the Governor's proclamation; but the fact was different, for the old Legislature was doubly dissolved, first

by the Governor, as above stated, and again by the division of the Territory, which struck off three members of the House of Representatives and two of the Legislative Council. Thus there was no Legislature in being to make the apportionment, agreeably to the act of Congress.

The petition, after further explanations, goes on to state, that after the General Assembly was convened, the minority of the Representatives not conceiving themselves authorized to go on in legislative business, the Legislature agreed to postpone doing any business except apportioning an additional member to make the number nine, agreeably to the law of Congress extending the right of suffrage to the Territory.

The above petition is accompanied with a document purporting to be a resolution of the General Assembly requesting the Governor to dissolve the Assembly, and to proceed as speedily as may be to organize another under the provisions of the act of Congress.

4th. In support of the irregularities in the election, stated by the petitioner, he produced to the committee a certificate signed by the clerk of the court of Dearborn county, testifying that there were two districts in said county in which the citizens were prevented from voting, through the omission or unintentional mistake of the sheriff. He also produced a return of the election held in the seventh district of Dearborn county, in which the signatures of the poll-keepers, required by the law of that Territory, are wanting; but it is certified by the judges of the election to be a true test of the votes taken under their inspection on the 22d day of May, 1809, and certified by the Secretary of the Territory to be a true copy.

The petitioner also produced a certified notice, given to Jonathan Jennings, of his intention to contest his election, and that for that purpose he would apply on the first Tuesday of September next at the court-house in the town of Vincennes, where the sitting member might attend; and further adds, that there are other grounds upon which he shall contest his election, and says that of this due notice shall be given; but these other grounds have not been stated to the committee, nor any further notice to the sitting member produced.

In reply to these objections, the sitting Delegate complains that he had neither notice nor opportunity to have the alleged irregularities examined. He admits that two districts in Dearborn county were prevented from voting, as stated by the petitioner; but says he could prove, if he had an opportunity, that there did not more than fifteen attend at the places of election who had a right to vote, who, if they had all voted for the petitioner, which he does not admit, would not have altered the state of the poll. He further alleges that, if opportunity had been allowed, he could have proved that the poll-keepers at the election held in the seventh district of Dearborn county did their duty according to law, though their signatures do not appear along with those of the judges in the copy before the committee. He further says that he is informed that, if he had an opportunity, he could prove that the election in Knox county, where the petitioner had all the votes, was not conducted according to law. This fact the petitioner admits, and the sitting member claims an opportunity to examine the facts alleged in opposition to his right to a seat in the House.

The petitioner does not ask the election to be declared void on account of the want of legal authority vested in the Governor. He, before the committee, argued in support of the Governor's authority to order the elec-

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

tion by proclamation, and rests his plea solely on the irregularities he has specified.

The sitting Delegate also advanced the legal authority of the Governor to organize the Legislature, and to direct the election of a Delegate, in argument before the committee, and in a written paper reported along with the documents.

Besides the opinion of the General Assembly, in their petition, expressing a doubt of the authority by which they were convened, the Governor himself, in what is submitted to the committee as the Governor's speech at the opening of the General Assembly, convened by his own authority, expresses a doubt of his authority, but goes on to support it by a liberal construction of the law of Congress for extending the right of suffrage to the Territory.

The committee, after deliberate examination of the laws relative to the Indiana Territory, consider it to be their duty to investigate the authority under which the election of a Delegate to represent that Territory was held, previous to an examination of the irregularities suggested, because, if the election was held without authority of law, it was void, without regard to irregularities; and, on this investigation, they discovered that the Governor had, on the 26th October, 1808, dissolved the Legislature, but that at that period his power to organize it again remained unimpaired. They also found that by the act of Congress, erecting the Illinois Territory into a separate Territory, five members of the Representatives, with the districts which they had represented, were taken away from the Indiana Legislature, and two of the Legislative Council; by which act, the Legislature of the Indiana Territory was not only dissolved, but abolished, and no power vested in the Governor to revive it, because the power vested in the Governor with relation to the Northwestern Territory could not be applied to the Governor of the Indiana Territory. The saving clause, viz: that nothing in the act dividing the Indiana Territory shall be construed in any manner to affect the Government now in force in the Indiana Territory, cannot, by any reasonable construction, be applied further than to protect the Executive and Judiciary of that Territory, because there was no Legislature in existence at the time at which the Territory was divided; and because the act of Congress, passed the 27th February, 1809, extending the right of suffrage to the citizens, directed a General Assembly, that contained a regular number of members, to be elected at the same time and places as the Delegate to Congress, directed by that law to be chosen by the freeholders.

The last-mentioned act expressly provides that the apportionment on which such election shall be held shall be made by the Legislature, and that that Legislature shall consist of not more than twelve, nor less than nine members. And if no such Legislature or General Assembly existed in the Territory, the act of Congress gives no authority to the Governor, or any other person, to act with Legislative authority.

That there was a defect in the act of Congress granting the extension of the right of suffrage, is admitted. It did not provide for the organization of the General Assembly which it prescribed, and no reasonable construction could supply that defect: it required a supplementary act of Congress, which act has actually passed this session, and has been approved the instant.

If the Governor of the Indiana Territory, instead of exercising the legislative authority of Congress on what

he supposed a liberal construction of the law, had represented the case to Congress at the last session, the defect would have been supplied, and the Territory now legally represented in Congress. It cannot be admitted that the Governor of a Territory may by his own authority supply a want or defect of a law of Congress, on his own opinion of a liberal construction, expediency, or necessity. To sanction such an assumption of power, by a vote of this House, would set a dangerous precedent. On this view of the subject, the committee submit the following resolution:

Resolved, That the election held for a Delegate to Congress for the Indiana Territory, on the 22d of May, 1809, being without authority of law, is void, and consequently the seat of Jonathan Jennings, as a Delegate for that Territory, hereby declared to be vacant.

CONDUCT OF THE BRITISH MINISTER.

The House again resolved itself into a Committee of the Whole on the resolution from the Senate, approving the conduct of the Executive in refusing to receive any further communications from Francis J. Jackson.

Mr. GOLD.—It is with much regret, sir, that I am constrained, at this time, to meet a question involving a consideration of the merits or demerits, and the consequent approbation or disapprobation of the Administration of the Government of my country. It cannot, sir, but be seen, that the resolutions before the Committee do convert this House into a Council of Censors. Let it be remembered, that those with whom I may act on this occasion have had no part in bringing this question before the House. It only remains, sir, for us to meet the question thus put upon us, in that spirit of independence becoming the Representatives of a free people, and with that solemn consideration due to the momentous subject of peace or war, now presented to the American people.

And here, sir, at the very threshold, let me not be misunderstood. I rise not, sir, the apologist of the enemies of my country. I rise not, sir, the advocate of Mr. Jackson, or of his commercial propositions, as far as they were disclosed; I disclaim them as utterly inadmissible; they ought not, they cannot prevail. None of these subjects, sir, shall find in me an advocate; nor shall the decrees or Orders in Council of the great European belligerents. On the subject of blockade, I hold, sir, the indispensable necessity of an actual investment, so as to create manifest danger to the neutral in attempting to enter, in conformity with the rule established in the treaty between Great Britain and Russia. Nor, sir, will I be found to justify insult offered by any foreign Minister to the Government of my country; only show me the evidence of such insult and you have my concurrence in support and vindication of the Administration. Here, sir, lies the question between us; does the correspondence of the British Minister contain an insult to Government? Are you willing to involve this country, whose boast has been her pacific policy, in war, on the grounds disclosed in that correspondence? Mr. Jackson is charged with having imputed to the Administration a knowledge of the defect of Mr. Erskine's

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

powers; of knowing that he was not authorized to enter into the arrangement of the 19th of April last.

In recurring, sir, to the stand taken by the British Minister and the American Secretary, respectively, to the opposite propositions advanced by them in their correspondence on this subject, we find Mr. Jackson asserting and maintaining, that the despatch from the British Secretary, Canning, to Mr. Erskine, of the 23d day of January last, containing the three conditions, was made known to Mr. Smith before the arrangement was entered into.

Does the American Secretary deny this position? No, sir; he does most unequivocally, in pages 45 and 87, admit that the conditions in that despatch were presented to him. Here, then, sir, so far, there is no contradiction, no possible ground on which to engraft the charge of insult. On the part of the American Secretary, without controverting this allegation of Mr. Jackson, a new and very different proposition is set up, to wit: that the fact of Mr. Erskine not being authorized to enter into that arrangement was not known to the Administration or Government.

Does the British Minister contradict this; does he answer it at all? No, sir; it is not to be found in the correspondence. But, sir, a resort is had by the advocates of the resolutions to constructive imputation, to the doctrine of presumptions; a doctrine at all times dangerous when applied in support of a criminal charge, and to be received with great caution. Bounds must be set to this range of presumption, for it is a rule as old as the common law of our country, and as just as it is ancient, that odious, uncharitable, unfavorable intentions are not to be presumed. You are not to search with a nice, a jealous eye, to see if words may not possibly be understood in bad part. If this rule is received in administering justice between individual and individual, with double force does it apply to nations; to the great issues of peace and war; to questions involving the destinies of millions; and most emphatically to the American nation, boasting a pacific policy, and professing to hold in abhorrence the mad systems of the European world, which involve nations in war to gratify wounded pride, or satisfy the punctilios of honor. If we are now to abandon the rule here laid down, and pursue the course marked out by the resolutions on your table; if such grounds of suspected insult are to become causes of war, you must consent to bid adieu to your pacific policy; your eagle must cease to grasp the olive branch; and we must move down the broad way of nations, filling up our future history with a succession of wars, and scenes of human suffering. Must we forget, sir, that forbearance and moderation, in avenging insults, is the lesson of wisdom? Must we deprive ourselves of that consolation and support so necessary, when war with all its calamities shall overwhelm, of reflecting that our quarrel is just in all its parts, and that no fault of omission or commission lies at our own door? Must we put upon so doubtful an issue the justice of our cause in the opinion of

foreign nations? Permit me now, sir, to advert to the documents before the Committee, and see if there be any terms found in the correspondence of the British Minister which fairly import that our Administration knew Mr. Erskine to be unauthorized to enter into the arrangement in question. The following paragraph, in a letter of the 11th of October, (page 31 of documents,) is adduced for this purpose, and to make out the charge of insult to the Administration:

"You have not, in the conferences we have hitherto held, distinctly announced any such complaint, (of the disavowal of the arrangement,) and I have seen, with pleasure, in this forbearance, on your part, an instance of that candor, which, I doubt not, will prevail in all our communications, inasmuch as you could not but have thought it unreasonable to complain of the disavowal of an act, done under such circumstances as could only lead to the consequences that have actually followed."

It becomes important, sir, here to ascertain what circumstances are referred to in this passage; and here the Minister has not, in my conception, left us without a certain guide, but has, in the paragraph immediately following, so explained himself as to repel all possible doubt of his meaning. He states that the conditions in the despatch of the 23d of January, were, according to Mr. Erskine's report to his Government, made known to the American Secretary, and, after showing that the arrangement of Mr. Erskine does not correspond with those conditions, he, with a reference to those premises, uses the precise terms complained of, "such circumstances," and from them deduces the right of disavowal. As certainly as the relative "such," upon elementary rules, refers to its antecedent, does the Minister here explain his meaning, in using the terms "such circumstances," to be, that the right of disavowal flowed necessarily from a defect of power in Mr. Erskine to enter into the arrangement. The construction cannot be sustained, for a moment, that the terms "such circumstances," as here applied, mean one thing in one place, and another thing in another. But, sir, why will you make the Minister place the right of disavowal on one ground and his Sovereign on another? Did not the British Government solemnly, in the face of Europe, disavow Mr. Erskine's arrangement upon the single ground of its being unauthorized, without regard to the fact of the defect of powers being known to our Government? and why will you force the construction which would make the British Minister superadd a further ground of disavowal in imputing to our Administration a knowledge of such defect, which was not assumed in the original act of disavowal in London? So far, sir, from there being here any foundation for presuming that the Minister intended to add other and unnecessary ground for the disavowal to that assigned by his Sovereign, that the inference is irresistible that he intended to place it on the same ground, on the same circumstances, and no other. The principle of the disavowal adopted, in the first instance, by the British Government must be considered as a polar star, to guide us in expounding all the sub-

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

sequent acts of the Minister on the same subject. I will only add, sir, on this branch of the insult, that the terms complained of, "such circumstances," can never be presumed to refer to any dishonorable circumstance, if there be any innocent circumstance or fact, growing out of the subject, which the terms may embrace. Need I add, that the defective powers of Mr. Erskine present themselves, at first view, as falling within the above terms of reference, and that they necessarily lead to, and, in themselves alone, disconnected from every other circumstance whatever, justify the disavowal upon the established principles of public laws? If any one can yet doubt, let him turn to this Minister's letter to Mr. Smith, of the 23d of October, (page 57 of the documents,) where you will find Mr. Jackson, on a formal call of Mr. Smith, states the precise ground of the disavowal adopted by his Government; of which a knowledge of our Government of want of authority in Mr. Erskine forms no part. Is it fair, is it just, to extend general expressions on a subject beyond the particular and formal explanation given in the same correspondence on the same subject?

I come now, sir, to what it has been deemed proper to set up, in the body of the resolution before the Committee, as a monument of British insult to the American nation. This is to be found in the above letter of the 23d of October. Every sentence, every line of this ill-fated letter, I have carefully analyzed and weighed, and I have searched in vain for evidence of the charge brought against the British Minister. In the previous debate, one gentleman refers to one part and another to another part for the insult. If the supposed offensive paragraph had been introduced into the resolution, it would have saved much embarrassment to the friends of the measure, and given much satisfaction to opponents. If there be insult in this letter, it lies too deep for me to fathom. The only passage, which, to a mind the most jealous of its honor, could be deemed susceptible of a doubtful construction, is the following: "So far from the terms, which he (Mr. Erskine) was actually induced to accept, having been contemplated in that instruction (of the 23d January,) he himself states that they were substituted by you in lieu of those originally proposed." It is possible, sir, to suspect, that it was intended to charge Mr. Smith with using improper means to induce Mr. Erskine to substitute the propositions contained in the arrangement for those in the instructions; but so long as fair and honorable means of inducement were open to the American Secretary, so long, sir, it was his bounden duty to urge those means in every shape and with all that address and ingenuity for which the diplomatic theatre has been at all times so much distinguished. Surely, sir, it is a forlorn pretence that no means could be here imputed but such as were unworthy and dishonorable. Let gentlemen advert to the same correspondence, and they will find that Mr. Jackson himself, after referring to the same conditions and instruction of the 23d of January, invites the

American Secretary to make proposals, to offer a substitute. Can it be more criminal to offer substitutes in April than in October, to endeavor to induce Mr. Erskine to receive them, than Mr. Jackson? And here, sir, let me repeat, that, unless there were no means which Mr. Smith could use to induce Mr. Erskine to substitute the conditions agreed on, except such as were improper, it is impossible, upon settled rule of construction, to sustain for a moment this imputed insult. It is to be understood that such means of inducement as were fit and proper only, are, under the general expressions in question, intended. But, if there could be any doubt, on the face of this letter, you will find, by turning to another letter of the 11th of October, (page 31 of documents,) that Mr. Jackson could not, on this point, intend insult, as he there admits that it may have been concluded between Mr. Smith and Mr. Erskine; that the conditions substituted and agreed on were an equivalent for the original conditions of the 23d of January.

This admission applied to all the subsequent correspondence on the same point; and if the conditions substituted were equivalent, the very foundation of the imputation is subverted and done away.

The last letter, of the 4th of November, alone remains to be considered. Some fatal error appears to have attached itself to the resolution throughout. The term "repetition" is applied to this letter, than which nothing can be more incorrect. Whatever that part of it may be to which this term is applied, it is not a repetition, its true character is a justification of the preceding letters; and I am warranted in saying that the paragraph in question is couched in terms as little offensive as its object would well permit. But I do not hesitate to say that, if the preceding correspondence was offensive, this as a justification could not be innocent; and yet, sir, there is a fitness and propriety in so solemn a paper as the resolution before the Committee, in giving to the subject its true character and denomination.

On the subject, sir, of the circular of the British Minister, issued upon his dismissal, which the resolution embraces among the causes of war, I have but little to offer the Committee. That paper is, in my opinion, justly subject to animadversion. A foreign Minister is to communicate through the Government to which he is sent only. But, sir, as this note is not in the usual inflammatory language of an address to the people, but brief and temperate, it is swelled, by the resolution under discussion, into a consequence and character greatly above its intrinsic merits. I see nothing in the paper that should arouse America to arms.

Permit me now, sir, to call the attention of the Committee to some prominent points in the correspondence on the part of the American Secretary; that, seeing both sides of the question, with the relative merits and demerits of the correspondence, we may be enabled to pronounce a righteous judgment. After the British Government had solemnly disavowed the arrangement

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

entered into here on the 19th of April, as unauthorized, as contrary to instructions, we find the American Secretary, in his correspondence, agitating, at some length, the question of public and private instructions; suggestions and suppositions are introduced of different sets of instruction, issued by his Sovereign to Mr. Erskine. The same suggestions have found their way into this debate. Let gentlemen pause and consider how high a charge, how reproachful an imputation, is here brought against a foreign Government. Great Britain is represented as giving Mr. Erskine one set of instructions, to show, *in extenso*, on which the arrangement entered into is to be disavowed; and another set to put in his pocket, for his protection against his Government, which would, if produced, warrant the arrangement. Between individual and individual such a practice would be pronounced downright swindling. It is a transaction in its nature so fraudulent and base, that I would not believe it of any crowned head in Europe. Could the breast of the British Minister be insensible to such an imputation? And is there not, sir, in justice, some allowance to be made to a correspondence under such circumstances? Whatever gentlemen seem disposed to believe of Mr. Canning and Mr. Jackson, they profess some charity for Mr. Erskine, whose moral character has been respected by the Administration during the whole period of his residence in this country; we find them appealing to him as a witness for them against Mr. Canning. Do gentlemen mean to charge Mr. Erskine with being the humble tool, the disgraceful instrument, in the hands of Mr. Canning, to carry into effect this flagitious conspiracy, this infamous fraud upon America? Do they mean to charge him with receiving a public instruction for our inspection, and a private one for suppression, for the purpose of deceiving, cheating, and defrauding the American people? Will they suppose him capable, in the situation he stands, of consigning his fair reputation to infamy forever, by continuing to suppress instructions, merely to vindicate the political character of Secretary Canning? In this light, and no other, do gentlemen, by their suppositions of different sets of instructions on the same subject, place Mr. Erskine. But, sir, the evidence before the Committee, aside from the intrinsic improbability of the supposition, forbids us to indulge the suspicion; we ought not to shut our eyes against that evidence and deceive ourselves. We cannot avoid seeing and believing that the different sets of instructions, mentioned by Mr. Erskine, are not upon the same subject, the Orders in Council, but upon different subjects, to wit: the orders, and the attack on the Chesapeake. To this point the despatches of the American Minister, in London, particularly the letter of the 20th of May last, to the Secretary of State, communicated by the President in his Message of the 18th instant, is conclusive.

In the course of this correspondence, sir, we are presented with a reiterated demand of the American Secretary upon the British Minister, for the reasons of the disavowal; a disavowal founded

on the simple ground of want of authority in the agent to do the act disavowed; a ground, sir, which rendered the act intrinsically void from the beginning.

In such case, sir, are not the reasons of the disavowal, the precise reasons of the instruction to Mr. Erskine, connected with the deviation from that instruction? Were not the Orders in Council the avowed basis of that instruction, and were they not known to all Europe, and not only known but severely felt in their unjust operation upon neutral nations? Has not this same subject occupied our deliberations, diffused itself through all our foreign relations and correspondence, and filled up almost every page of our history for years? And yet, sir, we are so ignorant on the subject as to require to be instructed anew. Nor was this, sir, a departure from instructions in an immaterial point, but the departure went to the principle and basis of a great system of national policy, resorted to for retaliation upon a belligerent, but operating most injuriously upon America. The necessity of powers, distinct from letters of credence, to enable the Minister to enter into a contract binding on his Sovereign, has been placed, in my conception, upon unanswerable grounds by the honorable member from Connecticut. Indeed, sir, on this point, authorities of public law thicken on every side; I will trouble the Committee with but a few references. To show that the American Ambassador in London considered it necessary that additional powers should be granted to Mr. Erskine to enter into the arrangement, and that he himself suggested this necessity to Secretary Canning, I refer the Committee to Mr. Pinkney's despatch to his Government contained in the last Message of the President (page 5th) in which he says: "I suggested (to Mr. Canning) that it would be well, in case a special mission did not meet their approbation, that the necessary powers should be sent to Mr. Erskine." This was on the 22d day of January, and in pursuance of Mr. Pinkney's recommendation, instructions were issued to Mr. Erskine on the next day. Did not Mr. Pinkney understand the relations between the two countries, and the extent of Mr. Erskine's former powers as well as any gentleman of the Committee? I may add, that he did not deem it foreign to his duty to see, at the outset, that Mr. Erskine was furnished with the necessary powers.

Vattel, in his treatise on public law (book 2d, chapter 12) says, in treating of Ministers Plenipotentiary, "that to this office we may apply all the rules of natural law, which respect things done by commission. The rights of the proxy are determined by the instructions that are given him; he must not deviate from them, but every promise which he makes, and within the extent of his powers, is binding on the constituent." Here, sir, is a plain rule, founded in wisdom and common to the ordinary transactions in life; it applies to merchant and factor, principal and attorney or agent, as well as to a Sovereign and his Minister.

Grotius (third book, chapter 22d) observes, "it

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

' must be considered on what foot the agent was appointed, for if ordered to treat on conditions, he ought to follow them, in default of which his act may be disowned."

In second *Rutherford* (section 19) the rule is laid down: "Treaties bind the State and Sovereign only: when the Ministers have been duly authorized to make them, and have done nothing contrary to their instructions."

That letters of credence are matters of form, and are not considered as giving power to enter into any binding stipulation, I would refer to the same book, (page 362, section 4.)

It will occur to the honorable member from Kentucky, (who first addressed the Committee,) on reflection, that the case he alluded to, of a discussion between Mr. Pinkney and Mr. Canning for exchanging the embargo against the Orders in Council, falls precisely within the rule laid down by the gentleman from Connecticut, as illustrated by reference to the correspondence between Mr. Jefferson and Mr. Hammond.

I observe, sir, with some surprise, that the effects of the arrangement and disavowal are described by the strong term "irreparable" to the United States; whereas, in my humble opinion, the balance of advantage is greatly, as between the two countries, on the side of America. It is true that Great Britain suffered, but, is it less true that America was half ruined by the baleful embargo and its concomitants? Imagine, sir, the situation of the Administration on the 19th day of April last; advancing to a precipice in full view; non-intercourse, buckled on with difficulty, for a few months—its days were counted and its sands numbered; the ensuing May session was the term of its duration. What a humiliating prospect, after all the promises given this country, that it should bring the great belligerents of Europe to our feet, and all our losses sustained under its operation? Was not every motive presented to Government to seek, by all honorable means, to remove non-intercourse by treaty rather than leave it to perish by the hands of its authors? Is it possible not to see that, in entering into the arrangement with Mr. Erskine, the interest of all, both governors and governed, were consulted?

The happy effects are seen throughout the community. The bankrupt list has greatly diminished, and the relation of debtor and creditor is much improved. We see no longer the coin of our country flowing in copious streams to Montreal to purchase bills for remittance to Europe; our produce, which was rotting in the hands of the farmer, is exported in place of a remittance of coin. I insist, sir, we have the best of the bargain; and I do most willingly join with the honorable member from Pennsylvania in a requiem to the departed spirit of the embargo; I will go further, sir, and pray that the tutelary genius of my country may watch the door, lest that fell spirit should, by some magical incantations, be again raised to infest the land. I congratulate the United States on the manifestation of a disposition, in the report of the Committee on Foreign Relations, to suffer the remnant of this ruinous

system to pass gradually into oblivion; whereas, if it was so precious a boon, as one would be led to suppose, from the above correspondence, we might have expected the whole system of commercial restriction to be reinstated in all its force.

I have a few observations to bestow on the agency of British ships, mentioned in the correspondence, and I have done. The condition on this subject, in the despatch of Mr. Canning to Mr. Erskine, of the 23d of January, has been deemed insulting, and as presenting a strong feature of hostility to this country. If the public agents of our own Government have been, in any manner, accessory to this proceeding, this supposed feature of insult and hostility will be greatly mitigated, if not destroyed.

While I find nothing in the correspondence of those agents to warrant the insertion of a stipulation in a treaty, that American merchantmen, captured by British ships, in violating a non-intercourse with France should be good prize, I do find that which to Great Britain, is little, if any, short of an equivalent, to wit: that the captured would be without complaint and remediless. The agency of British ships is not to be admitted by precedent stipulation, but to flow as a consequence and, in a manner, to produce to Great Britain all the benefit, and to America all the loss of an express stipulation.

In a conversation between Mr. Pinkney and Mr. Canning, on the 22d day of January last, as detailed in a despatch of the former to his Government, communicated by the President on the 18th instant, (page 5th of the Message,) Mr. Canning presented this precise proposition in favor of the agency of British ships as above, to Mr. Pinkney for his approbation. Does the American Minister, sir, take fire at the proposition as highly offensive? No, sir, I find no objection then made; leaving an inference of implied assent to be made.

In another despatch from Mr. Pinkney to the Secretary of State, of the 6th of June last, and communicated in the same Message, Mr. Pinkney, referring to a previous conversation, with Mr. Canning, expresses himself as follows:

"It will, I am sure, occur to you, as the fact is, that the little which I may have thrown out upon that occasion, did not look to the admission of Mr. Canning's object into any stipulation between the two countries, and that I viewed it only as a consequence that might and would, if France persisted in her unjust decrees, grow out of arrangements similar to those offered by us in August last."

Our Minister complains that Mr. Canning misapprehended him. The above extract discloses the length and breadth of that misapprehension; Mr. Canning did not assent to the agency of British ships as a precedent, but only as a consequence. It is impossible, sir, not to see that Mr. Canning has been led into an error in some degree by the agents of our own Government.

In the communications between the Secretary of State and Mr. Erskine enough is found to show that Mr. Pinkney had not mistaken the views of

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

our Government. Mr. Erskine, when appealed to, as a proper source of evidence for the Secretary, replies as follows: (page 20th of the documents:)

"The third condition, you certainly very distinctly informed me, could not be recognised by the President, but, you added, what had great weight in my mind, that you did not see why any great importance should be attached to such a recognition, because it would be impossible that a citizen of the United States could prefer a complaint to his Government on account of the capture of his vessel while engaged in a trade absolutely interdicted by the laws of his country."

While, sir, I have found myself constrained, in the foregoing observations, to consider the correspondence of the American Secretary as tinctured with asperity and irritating to the British Minister, I can readily suppose that personal collision and strong impressions of injustice to this country might get the better of great personal urbanity and courtesy of manners.

I have, sir, with freedom, but with due regard, I trust, to the decorum of debate, submitted the reasons for which I cannot consent to attempt the dangerous course marked out by the resolution before the Committee; a course which, without any possible benefit, may put in jeopardy the peace of the country, may bring upon us the greatest calamity that can befall the nation.

Mr. MACON said it appeared to him, the first point for consideration in the resolution ought to be, is it expedient? but it seemed to him that those who had taken part in the debate had looked at everything but the resolution; and he should probably follow the example. What good effect will the resolution have if adopted? Will it produce unanimity at home, or respectability abroad? Will it add strength to the nation? Will it fill the Treasury with money, or will it convince the civilized world that it is their interest to act justly toward us? No, sir, it will not produce one of these. I am opposed to the resolution, not for the reasons which have been offered against it, not for any which can be drawn from the documents before us, but because I am opposed to addressing the President of the United States on any subject whatever. We have nothing to do with him in our legislative character, except in the passing of laws, calling on him for information, or to impeach. On the day of the Presidential election, we, in common with our fellow-citizens, are to pass on his conduct, and resolutions of this sort will have no weight on that day. It is on this ground solely that I am opposed to adopting any resolution whatever in relation to the Executive conduct. If the National Legislature can pass resolutions to approve the conduct of the President, may they not also pass resolutions to censure; and what would be the situation of the country, if we were now discussing a motion to request the President to recall Mr. Jackson, and again endeavor to negotiate with him?

No doubt can be entertained but that, at this and the last session, the policy of passing approbatory resolutions will have been as well investigated as ever any question was in Congress, be-

cause, as well as I recollect, when, at the last session, it was proposed by a resolution to approve the conduct of the President, for making the arrangement with Mr. Erskine, those who support the present resolution opposed that, and those who supported that oppose this; so that all the talents of the House seem to have been employed on each side of the question at the two sessions. In fact, it appears to me, that gentlemen have completely changed sides. I mean not by this to cast any imputation or reflection on any one. I consider the right of changing opinions a sacred one, and that which every man ought to do, when convinced that his opinions are erroneous or wrong; and it is one of the few rights of which the most tyrannical Government cannot deprive us. Convince me that I am wrong in opposing the present resolutions, and I, too, will change sides.

The dismissal of a foreign Minister is no new case in the country. Genet was dismissed, Yrujo was dismissed, and no bad consequence followed, and why should any be anticipated because Jackson has been dismissed? I will not trouble the Committee with reading any part of the documents, they must be tired of hearing parts of them already, and every member has surely read them with attention, beside the nation has them, and will decide on them, without our assistance; to me it appears, on a fair examination of his letters, that he was properly dismissed; but, to the resolution—it will not be denied that either House might pass an approbatory resolution without asking the concurrence of the other. Then, what would be the situation of the Government or the country, if one branch of the Legislature was of a different party from the Executive, and the branch agreeing with the Executive should pass an approbatory resolution; might we not from our knowledge of the intolerant spirit of party expect the other branch to pass one to censure? But, suppose both branches opposed to the Executive, and they pass joint resolutions against him, what then becomes of the Executive? Strong as it is, with all its patronage, it must fall. No Executive could maintain itself in this situation. This state of things would agitate every part of the nation and shake the Union itself; and this Government is so organized, that it is not impossible but all this may happen. This House is elected for two years, the Senate for six, and the President for four. If ever it should happen, I fear you would not only have no President, but no Federal Government. This would be a very different case from that which took place when Congress repealed a law, because it was opposed by a part of the nation; that opposition was used as an argument to shake the firmness of the National Legislature, and it succeeded. I have, since I had a seat in the House, heard a great deal about foreign influence; I never believed much in it, but if events, like those I have mentioned, should ever take place, then you may look for foreign influence.

Permit me here to notice an argument of the gentleman from Connecticut, (Mr. DANA,) rela-

tive to the disavowal by the British Government. If the ground he assumes be true, his argument is unanswerable. If I mistake him, I wish he would correct me, because I have no desire to do it; I understood him to say that Mr. Erskine had no full power to do what he did, and that the Administration ought or must have known it. I believe, sir, it is as difficult to decide what an accredited Minister may do, under his letter of credence, and what would require a new or full power, as it is to distinguish the lines which separate the shades of color. All the gentleman's arguments went to show that a full power was necessary to form a treaty. This, I mean not to deny; but, he assumed as a fact that the arrangement made in April last was a treaty. I deny that it was a treaty; if it was a treaty, how does it happen that, at the last session of Congress, neither the gentleman himself nor any one else in this House said a word about its being laid before the Senate? Every one knows that a treaty cannot be made, under the Constitution, without the consent of that body. I am not diplomatist enough to say to what class of public agreements the disavowed arrangement properly belongs; Mr. Erskine called it an arrangement, and Mr. Jackson an agreement; and I challenge any man to say it was a treaty, and ought to have been laid before the Senate by the President. If a full power was necessary to the conclusion of the arrangement, where was the sagacity of the gentleman from Connecticut last Spring, when he was so desirous of voting thanks to the President, for having made this very arrangement? In this House, it is well known that I was as much opposed to the motion, last Spring, as I am now to this, and intended to have delivered my sentiments upon it, but was prevented by the House not deciding on it. Why did not the gentleman then come forward, and tell us that this boasted arrangement was all nothing? For in the whole correspondence, which was then laid before us, there is not a word about full powers; in fact the British Government, in the disavowal, has not made this objection; nor has it called the arrangement a treaty; both Governments, and every man in both countries, understood it to be not a treaty, but only an agreement, by which the United States engaged to withdraw the operation of a certain law as to Great Britain, provided Great Britain would withdraw her Orders in Council; both engaged to do certain things, and the United States fairly performed their part. If the President was to blame, the blame does not begin with him, it begins with Congress, because Congress passed the law which authorized him to do as he did. He was authorized to suspend the operation of the non-intercourse act, provided France or Great Britain should do certain things. If the arrangement be a treaty, then Congress passed a law to authorize the President to make a treaty; and if Congress can constitutionally pass a law to authorize the President to make a treaty, my lips are sealed on this point—to use a modern phrase, they are hermetically so forever. But Congress

did no such thing; the arrangement was made under the law, and not under the Constitutional power to make treaties. If the President was to blame, or was not authorized to do what he did, the last session was the proper time to have objected; but, instead of objections of any kind, no man in or out of Congress discovered that the British Minister, Erskine, had not full power. In truth, if this objection be good, we ought not then to have said "well done" to the Executive; not only we, but every man in the nation said to him "well done." If the British Government had not disavowed the arrangement and the President and Mr. Jackson differed, we never should, in my opinion, have heard a word about this want of full power in Erskine, it would not have been thought of.

I confess, sir, I have been most egregiously disappointed, since the debate on the resolutions commenced. I did not believe before, that there was a man in the nation who thought the Administration hostile to an amicable adjustment of all our disputes with Great Britain, or who could read Mr. Jackson's first letter without feeling the insult offered in that. In that letter he intended either to insult the Administration, to laugh at it, or, if you please, to humbug it. His appeal is nothing compared to his first letter. Instead of appealing to the people, suppose the President had refused the arrangement offered by Mr. Erskine, and he had, in an appeal to the people, stated the offer and the refusal? Should we have had motions to approve the conduct of the President? No, not one; all would have declared that the Administration was hostile to negotiation with England; every one would have been as much displeased with the refusal, as they were pleased with the arrangement; and so pleased were all parties, that all seemed to claim the President; it seemed to be almost a dispute in the House to which of the two great parties he belonged; and if he had not concluded the arrangement, both parties would probably have disclaimed him, one saying they never expected any good from him, and the other that they always entertained doubts of him. If the Administration were unwilling, as has been said, to settle our disputes with England, why make the agreement with Mr. Erskine, especially if they knew, as the gentleman from Connecticut has told us they did, that he had no full power? If this assertion of the gentleman proves anything, it proves an over anxiety in the Administration to settle our disputes with Great Britain; and, if they have erred, they have erred from this over anxiety.

This debate, I fear, will have a most unfortunate effect on the nation; it has, more than once, put me in mind of two men who should be present when the house of a third was burning, who, instead of assisting him to save his property, were endeavoring to call his attention from the fire, to some unimportant circumstance—such as, look, yonder is a Jack-o'-lantern, or a star shooting;—they were willing to amuse the man with trifles, but not to aid him in putting the fire out. So, with us; anything will do to debate on, that will

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

take off the attention of the nation from the great question which it ought to consider. One says, Smith is wrong and Jackson is right; another that Jackson is wrong and Smith is right. Is this calling the attention of the nation to this petty quarrel, for so I call it, in comparison with other evils inflicted on us? Is it equal to the attack on the Chesapeake? Is it equal to the impressment of our seamen? Is it equal to the French decrees and British Orders in Council, which violate all our neutral rights? Or, is it equal to France, paying no sort of regard to her treaty with us? It is pointing the eyes of the nation to Jackson alone. How comes it to pass that the insolence of this Minister makes so much noise in this House, when that of D'Yrujo made none, and that of Genet very little? To me this is inconceivable.

A gentleman from Rhode Island (Mr. POTTER,) who made a very elegant speech, said that the whole dispute between the two great parties was that of the ins and the outs, a contest who should have the loaves and fishes. If it really be so, I have been very unfortunate, having been here a long time, and have not got either loaf or fish. I do not doubt but the gentleman believes it, as he stated, nor can I doubt what he says concerning his own party; he knows them better than I do; and I, therefore, must believe him as to them. But, sir, the men who were in the opposition in the year 1798, did not want places, and they afterward proved it by their acts. As soon as they got into power, they put down four or five hundred snug places, by repealing the laws under which they existed; if those in power now possess the same principles with the opposition of the year 1798, they do not want places.

The gentleman almost warmed me up to the war pitch, when he talked about the insults we had received, and the wrongs we had suffered, for the last fifteen years; if he had laid a declaration of war on the table, I am not sure but I should, from the impulse of the moment, have seconded the motion; indeed, I began to think he had such a motion in view. As for myself, I feel no hesitation in saying, that I had rather wait longer, and even depend on chance, than to declare war at this time.

To my mind, the cause of the disavowal is as clear as the noon-day sun. The embargo, which the gentleman from New York (Mr. GOLD) has brought into the debate, produced the arrangement, and the repealing of it the disavowal. At the last session, I had notes, with which I thought I could then defend the embargo, and made several attempts to do it, but, somehow or other, was always prevented. I was then willing to have undertaken it against talents a hundred to one my superior. Gentlemen may laugh, but it is certainly true that, by repealing the embargo, they gave their party a severe blow, and did the country great injury. The repeal, too, was not made until the House had declared that, to repeal the embargo and not go to war, would be submission; notwithstanding all this, on the question to authorize the President forthwith to issue letters of

marque and reprisal, only seventeen voted in the affirmative. The British Government sent Mr. Oakley here with instructions, under the firm belief, as I conceive, that the embargo was in force, and had Mr. Erskine, after receiving the instructions, instead of obeying them, as he did, informed his Government of the great change which had taken place here, he would not, I believe, have been disgraced, but ennobled. The instructions were sent, under the belief that the embargo was in force. When they arrived, the embargo was given up, and the non-intercourse act was substituted in its place, and not war. The embargo and non-intercourse united, would have been, like Samson and his hair, invincible; but the non-intercourse alone, is not worth the hair after being cut from the head of Samson. It has had the effect expected—it has operated upon ourselves, and nobody else, and scarcely on ourselves—for no one, I believe, regards it. I have seen letters from England, written, as I was told, by respectable men, which stated that the people of England could not have stood the embargo three months longer, and that they were determined to stand it as long as possible; because, if they yielded to it, we obtained a victory in a way that would always put them in our power. The nation was prepared to continue the embargo agreeably to the votes of this House. We had made the stand, and ought to have adhered to it. We then solemnly pledged ourselves to the nation, but we did not mind that; we unpledged ourselves with great ease, and I am unwilling now to make any pledge to the Executive whatever.

In my digressive way, I will go back to the resolution. I dislike it on account of the language; to say the least of it, it is too rough. One State paper excepted, and all the rest issued by the Government, have added to the American character. The man, whoever he may be, that dislikes Mr. Jefferson most, as a statesman, cannot but feel pride when he reads his correspondence with Genet and Hammond; his language, always polite and correct, constantly putting them down by refuting their arguments. I may be mistaken, but I really consider the resolution a sort of public manifesto. If I was to vote for a thing of the kind, I should wish it to be strong, but not rough or rude. It is not often that I undertake to give advice, but I cannot forbear recommending to the House, if they mean to pass the resolution, to commit it to a select committee, to put it in a different, and, I will add, a better dress; though I should not be able to do this myself, I am sure it could be done. It appears to have been copied nearly from a precedent in the Journals of the English House of Commons, and of no late date. If such language was then fashionable in England, I hope it is not now here. I know it may be said, that I often, in debate, speak roughly of the belligerents and their agents, but then I speak to my brethren, and not to them. I wish never to see a State paper under any Administration that may not add new lustre to the American name, and that the world may say the

style of the men of 1776 is not banished from the United States.

It is a little remarkable, that this question about full powers has never been started before, either in this country or England. When Mr. Pinkney was instructed to make an offer of the repeal of the embargo, provided the British Government would withdraw their Orders in Council, he was not asked for his instructions or full power; his authority was not doubted. If between us and the English there should be a departure from the strict rules of diplomatic etiquette, may it not reasonably be imputed to this circumstance, that we speak the same language, and of course there may be more ease and less form generally in our diplomatic intercourse, than among nations not speaking the same language?

Whether Mr. Erskine had competent powers or not, is a question between him and his Government, with which we have nothing to do. He told the Executive he had authority to make the arrangement, and the Executive was bound to believe him. I put this question to the gentlemen: Suppose the Executive had not believed him, or that the Executive had told him his instructions were not sufficient to make the arrangement, and had declined all negotiation for either cause, what would have been said? Surely this: that here was a fair offer to adjust a part of our disputes, and the accredited Minister was not believed; or that it was refused on a matter of form—a mere point of etiquette.

What is it that makes it necessary for the House to pass the resolution? The dismissal of Jackson cannot be the reason, although it appears to me from his letters that he did not come here with any friendly intentions. The style of his letters sufficiently shows this. It will not be said for this we ought to pass the resolution. It seems to me in asking for passports to protect him from the insults of the people, he has continued his insult. Genet and D'Yrujo were dismissed—they asked for no passports. I beg of the members to compare his letters with the letters of any other Minister, and they will be satisfied I have not mistaken their meaning, especially the first, with any first letter written by any Minister in the world. But his letters, indecent as they are, ought not to induce the House to adopt the resolution.

It has been said, that the Administration were unwilling to settle our disputes with Great Britain. In my conscience, sir, I firmly believe, and I judge only from their transactions, that they are not only willing but anxious to settle our disputes with all the world. If we had an ambitious military man in the Presidential house, it might be thought that he would not be willing to have our disputes settled, but rather to increase them; that he might thereby get armies and navies to follow the steps of Cæsar, of Cromwell, or of Bonaparte. Examine the Message of the President of the 29th ult. to Congress, in which he informs us that Jackson had been dismissed, and you will not find a single expression in it, that looks as if he was not sincerely desirous to settle our differ-

ences with all the world; if there be such an expression I will thank gentlemen to point it out. After mentioning the disavowal, and the breaking off of the negotiation, does he not plainly tell you, that he is still for another attempt to settle by negotiation? Every part of the Message breathes a spirit friendly to the peaceable settlement of all our disputes; according to my understanding it speaks of nothing but peace; not a word to be found in it advising a warlike attitude; no advice to increase the army or navy. It is strange, indeed, after reading such a message, it should be thought that there was a hostility in the Administration to an amicable settlement with Great Britain.

Sir, I am well aware, that upon this question I may appear to some in an awkward situation, because I dislike the resolution, and am not dissatisfied with the conduct of the Executive towards Mr. Jackson. Be it as it may, so long as I have a seat in this House, I never will give a vote which my judgment does not approve. There is no view of this resolution that pleases me; if it be meant as a new-fashioned answer to the Message of the President, I object to it; because I am unwilling to answer it any way. In 1801, when the change in the Administration took place, all were so tired of answers that no one made a motion to answer the Message. If it be meant for a declaration of war, I object to it, because it does not mention our greatest causes of complaint; it seems to leave them out, merely to bring Mr. Madison and Mr. Jackson into view. If war be meant, let gentlemen come out boldly and say so; give us a project for it in plain terms that all can understand. I have believed (and I hope in God I am mistaken, for no man is more desirous of peace than I am) from the time of the attack on the Chesapeake, that before our differences are settled with England we should be compelled to go to war with her; for one I would put it off as long as possible. It will be remembered that the embargo was supported as the only means to keep us out of war, and as a sure means to bring Great Britain to fair terms; and I still believe, as much as I do that we shall all die, if it had been continued three months longer, we should have settled every dispute with the English Government.

The conversations of Mr. Pinkney and Mr. Canning communicated by the President to the House at their request, have been brought into the debate. Unfortunately for the gentleman from New York, (Mr. GOLD,) who mentioned the embargo, he read a part of them. I am willing to rest the policy of that measure on that communication, and on Mr. Canning's conversation about it. Every time he talks with Mr. Pinkney, the embargo is mentioned; in fact it seems to be the first and the last word with him. Though I may not be willing to acknowledge him as good authority on the laws of nations, no one can doubt that he is not good authority that the embargo pinched England very sorely. If there be a man clear of party feeling, let him read the conversations between Mr. Pinkney and Mr. Canning, and if he does not decide that the embargo

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

was a bitter pill to Mr. Canning, I am greatly mistaken. That we suffered a little under the embargo was never denied; but, adopt what measure you will, that will have half the effect on England that that had, and we shall suffer twice as much under it as we did under that—in truth, our little sufferings under it were over, and it had begun to operate in Great Britain, when it was repealed. A little perseverance would have brought the British Ministry to terms.

The gentlemen who differ with me, not as to the vote on the resolution, but to the conduct of the Executive, have all declared that they would not submit to the British Orders in Council, nor would they treat on the terms proposed by the British Government; not one of them, except the gentleman from Rhode Island, (Mr. POTTER,) talked like fighting, and not one of them told us what he was willing to do. They will not submit to the Orders in Council, nor treat on the terms proposed. When the abominable transit duty was attempted to be put on us, the same declarations were made, and I believed them. I never have believed that an American would be base enough to pay that duty. There is no great change from that plan now. Almost all the countries with which we carried on commercial intercourse, and by which we were enabled to pay Great Britain for her manufactures, are now blockaded. It is true, you may trade to England, Bonaparte's decrees to the contrary notwithstanding; but you cannot go anywhere else without the consent of Great Britain.

All have said they would not submit, as well those who opposed the embargo from the first, as those who repealed it. I have heard so much said about not submitting, that I am really anxious that the gentlemen should come boldly out and tell us what they will do; if they will not do this, they ought to quit talking about the embargo. When the ship is in danger every hand ought to be at the pump, and it is no inquiry how she got into danger, but to get her out of danger. Suppose your house set on fire, will you ask for help to discover who did it? Or will you endeavor to put it out as soon as possible, and then inquire who did it? That the nation has many difficulties to struggle with cannot be denied; and no one will agree that he had any hand in producing a single one of them. Is it enough for us not to have aided in producing them? To me it seems not. It is the easiest thing in nature to say what you will not do, but it is quite different to say what you will do.

Before I sit down, I must ask the gentlemen for the proof, that the Executive is unwilling to settle our disputes with Great Britain by friendly negotiation. The assertion has astonished me. His Message of the 29th November, is to my mind complete proof to the contrary; his not treating with Jackson is no proof, because the gentlemen themselves would not have treated with him on the terms proposed; his sending him away is no proof, because he has declared himself ready to treat with any other agent that the British Government may appoint. Jackson I believe came,

like Rose, to settle no dispute whatever, and if no one would consent to treat with him on the ground proposed by Mr. Canning, what use could there be in his staying here? I cannot conceive any at all. For one, I sincerely wish that no foreign Minister were ever to put his foot on our shore, unless sent for some special and particular purpose, and to return immediately after he had completed his business, and so with our Ministers. I had rather give one \$50,000 for a trip of this kind than \$9,000 a year to reside at a foreign Court. If Mr. Jackson was authorized to do any thing, it was to reiterate proposals which had been rejected, and which, he must have known before he left England, would be again rejected. However it seems, instead of making proposals to satisfy us for the wrongs and injuries done to us, he politely waited for the Administration to make proposals to him. The case of the Executive and Jackson has been compared to common life—an unfortunate comparison. I am sure no case in private life can be found, where the injured party was told: Give your terms, after you have done this, I am willing to talk to you about them. The United States are the injured party, and Great Britain ought in justice to make the propositions for accommodation. However, I would not myself stand on this, so that we could any how have our differences fairly settled. Carry this individual comparison to a single case, that one man should without provocation give another a blow in the face—ought the man who received the blow to ask pardon? if he did, every man in the world would think him a very great fool, or something worse. The British have attacked your unprepared frigate, killed and impressed your seamen, when there was no war between you, and they have issued against you the most abominable proclamation that ever disgraced a civilized Government; and now they tell you, for all these injuries and wrongs, we are ready to hear all you have to say, but will not promise to do anything. The letters of Mr. Smith and Mr. Jackson are before the nation, and the nation will pass judgment upon them, and that judgment will be, in my opinion, that the Administration has been moderate enough. Many will, no doubt, wonder that Mr. Jackson's first letter was passed over in silence. It surely is the most insulting—the other only repeats the insult of the first; it would seem as if the Administration had not read the first. There is no danger that Great Britain will take the dismissal of Jackson in dudgeon. She well knows that neither the present nor the past Administration has the smallest inclination to go to war with her—if they had, they have had a hundred times the cause to do it that another Administration had for the quasi war with France, and which war I believe was first regularly declared by the Federal Government. I ask gentlemen to say whether this is not so?

When speaking of the embargo, a little while past, I forgot to notice that the embargo prices had been complained of. They were one third better than those of the quasi war, and the quasi war was not given up on account of the low price of

H. OF R.

Ezra Thurber.

DECEMBER, 1809.

our produce. The embargo began to pinch Europe so hard, and the prices of our produce had got so high, that more than \$30,000 was made on some of the first cargoes of tobacco, which went out after it was repealed. The Committee will, I hope, pardon me for so often touching on the embargo. I believe I am the only man on the floor, who has always been willing to defend it and stick to it, through good and through evil report; and so far am I now from giving up, that I am willing again to try it, provided the House would adhere to it, until we had a fair experiment of its effects. If the late Administration were desirous of war, why try the embargo? If the present are desirous of it, how does it happen the Message has not a word about war in it? The real truth is, that Great Britain does not want to treat with us. If she did, she might at any time, by doing justice, settle every dispute between us. What motive can an honest and upright Chief Magistrate have in this free country to wish for war, (and God forbid that we should have one of any other character)—his fame must be linked to his Administration; if the country be prosperous and happy, his fame will be great and lasting. What at this moment would give the President the greatest fame? and he, like all other men must value it. Need I look back to the arrangement made last Spring to discover, when all parties, from the most red hot Democrat to the maddest Federalist, were crying out to him—well done! Settling all our disputes with the European belligerents, would give him a fame, that would last as long as freedom should be respected.

Sir, the people in the Southern States have often been charged with a wish to go war with England. The charge has always been unfounded. That they have felt great resentment at the vile treatment we have received from both France and England, is undoubtedly true. How any man could think they wanted war, only for the sake of war, is unaccountable to me. They are an agricultural people, and, if you please, a slave-holding people; agriculture and domestic manufactures are their pursuits, and they want no protecting duties to encourage or aid them to make their homespun. If these people really want war only for the sake of war, they must be either mad or fools. Every man in the House knows that they are not in a situation to catch by privateering the fat London ships or the rich India ships. But, if they actually wanted war, how happens it, that in the year 1805, when the table was overloaded with petitions from the people of the large towns in the Middle and the Eastern States, declaring that they could not live under the British Orders in Council then in force, and which were not half equal to what we have since felt, that they withstood a torrent which would have drove the nation into a war with this very England? How an opinion so entirely without foundation should have gained credit is indeed wonderful. The face of the country, the population, and the pursuits of the people, ought to have convinced every man that the opinion

was erroneous. If we wanted war and the President wanted it with Great Britain, it is strange that no attempt was ever made to get it.

Permit me, before I sit down, once more most seriously to recommend it to the House, to recommit the resolution to a select committee; though I could not myself improve the language, I am sure it could be done—it might be made quite as strong as it is without anything rough in it. I consider the character of the nation in some measure implicated by the style of the resolution; at least let it be such as one gentleman would use to another; it is too much like that of Mr. Jackson's letters, a style which if used in some countries from one man to another, might produce a little *pink*ing. I have no more to say, and return the Committee my thanks for their attention.

The Committee rose at half past three, reported progress, and obtained leave to sit again; and the House adjourned till Tuesday next.

TUESDAY, December 26.

Two other members, to wit: from Massachusetts, BENJAMIN PICKMAN, jr.; and from Virginia, WILLIAM A. BURWELL; appeared, and took their seats in the House.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of sundry inhabitants of Knox county, State of Kentucky, presented a bill for the relief of William White, and others; which was read twice and committed to a Committee of the Whole on Friday next.

Mr. SMILE, from the committee appointed on the fourteenth instant, on the petition of William Linnard, presented a bill to increase the compensation of the military agent for the Middle Department; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. POINDEXTER presented a memorial of the convention of the representatives of the people residing east of Pearl river, on the waters of the Tombigbee, Alabama, Chickasawbay, and Mobile rivers, in the Mississippi Territory, praying that the act of Congress appointing an additional Judge in the said Territory, for the Washington district, may be repealed, and that a division of the said Territory may be made, under such regulations as may appear expedient and proper.—Referred to the committee appointed, on the sixth instant, on the petition of sundry inhabitants east of Pearl river, in the Territory aforesaid.

Mr. MORROW, from the Committee on Public Lands, presented a bill to extend the time for locating Virginia military land warrants, and for returning the surveys thereon to the Secretary of the Department of War: which was read twice and committed to a Committee of the Whole on Monday next.

EZRA THURBER.

Mr. JOHNSON, from the Committee, of Claims, made a report on the petition of Ezra Thurber; which was read, and referred to a Committee of the Whole on Monday next.

DECEMBER, 1809.

Conduct of the British Minister.

H. of R.

The report is as follows :

That it is stated by the petitioner, that the collector of the district of Champlain applied to him for the use of his house, situate in the village of Champlain, New York, for the purpose of stationing there a guard to put the embargo laws in force; that, on the 7th of April, 1809, the house was consumed by fire by the carelessness of the sailors in the revenue service, who then occupied it, by order of the said collector; and evidence is taken to prove the facts; and he claims the value of the house so consumed.

Without adverting to the testimony in this case, the committee are of opinion that, in principle, the United States cannot be liable for the acts of sailors in this instance; and it is unnecessary to advert to a principle which would exempt the United States from damages occasioned by citizens or sailors, unless such damage originated in the performance of the duty imposed upon such persons by the authority of the United States. The committee, therefore, recommend the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.

CONDUCT OF THE BRITISH MINISTER.

The House again resolved itself into a Committee of the Whole on the joint resolution from the Senate approving the conduct of the Executive in refusing to receive any further communication from Francis James Jackson.

Mr. FRISK.—As the course this debate has taken embraces a view of the relations between this country and England, and from that circumstance derives much of its importance, I shall not be deemed out of order in entering into an examination of the conduct of the British Government towards this country for some years past.

I shall not commence this examination by declaring that I have neither British partialities or French prejudices, or that I have no other object in view but the welfare of my country; such assurances equally apply to every topic of discussion within these walls, and seem to imply a doubt of the speaker's motives. From a view of the system pursued by England towards this country for the last ten or fifteen years, it must clearly appear that her object is to embarrass, cripple, and destroy our commerce. She has been progressing in this system, until she has nearly effected the object of her wishes. She commenced by interrupting our colonial trade, interpolating new principles into the laws of nations. Our merchants, alarmed at this outrage upon their rights, this destruction of their property, remonstrated against it, and petitioned the Government to interpose for their relief. Our Minister complains to the British Government, he is answered only by new and extended aggressions. Not satisfied with interrupting this branch of our trade, they blockade, not only our foreign markets, but our own ports are infested with their frigates. Our eyes are made to witness their depredations in our own waters. I need hardly mention the conduct of the Cambrian, or notice the multiplied captures made on our coast for violating these nominal blockades. These things seem to be no longer remembered. In their day they occasioned

some uneasiness. Again, we complained of the violation of our rights, and our injuries have been redressed by the attack upon one of our national ships, the *Orders* in Council, and the continued impressment of our seamen. Averse to war, we have remonstrated, and endeavored to negotiate, until there remains no hope of an adjustment by negotiation.

But Mr. Monroe's Treaty has been several times mentioned in this debate, and the gentleman from Connecticut (Mr. DANA) said that it was a great question whether that treaty ought not to have been submitted to the Senate for their consideration and ratification. Independent of the conditional ratification of that instrument on the part of the British Government, it was too exceptionable ever to be received and acknowledged as a national compact by the American people. By that treaty, we were required to abandon the navigation of the river St. Lawrence, to guarantee to the British the right of navigating the Mississippi. We were to have no other, but a direct trade to the East Indies. And, as it respects the West India trade, why, inasmuch as the parties could not agree respecting it, provision was to be made for settling that at a future period, and in the mean time, each party should enjoy their rights to it! And as to the spoliation and depredations made upon our property, about which our merchants had so loudly complained, that question was settled by a sweeping clause, declaring that, for all unjust captures "hereafter" to be made, we should be indemnified. These are articles which I believe no gentleman on this floor would be willing to subscribe. Yet, we are told this treaty ought to have been seriously considered, and some there are who have even contended that we ought to have accepted and ratified it. I cannot believe that this is the opinion of any American, who has attentively perused it. But, if there are any who believe that the British Government were willing to treat with us, a perusal of this treaty will convince them that it was only upon terms which required the almost unqualified surrender of our commerce into their hands. These degrading terms could require no hesitation to determine the proper course to be pursued. And that was, immediately to return it, or a prompt avowal that it would not be ratified by our Government. Great Britain, upon this, determines to make you feel both her resentment and her power. A wanton attack is made upon one of our public ships in our own waters, by the same orders, no doubt, which directed the bombardment of Constantinople and Copenhagen. An act so outrageous, that it occasioned a universal burst of indignation and resentment from the American people, in a tone that prevented even the British Ministry from openly avowing it, or attempting to justify it. As this attack was, by that Government, declared to be unauthorized, we had a right to expect honorable reparation. We were assured, that a Minister would be sent here for the express purpose. At length, Mr. Rose arrives. What does he offer? honorable reparation? No. In-

stead of tendering satisfaction for this injury, he recriminates the American Government for the exercise of an indisputable right—a mere municipal act, the issuing of the proclamation interdicting our hospitality to those who had so wantonly abused it. This must be revoked, or no terms of reparation could be offered. And when our Government propose to make the revocation contemporaneous with the act of reparation, this is refused. What else should we have done? fought? No; the country would have rung with the clamorous charge of French influence if war had been advised. But peace, so long as it could be honorably maintained, was the wish of our Government. Negotiation is again attempted, and the next intelligence we get from England is the Orders in Council, aimed at the destruction of our remaining commerce. Here, then, we are again presented with “a long train of abuses and usurpations, pursuing invariably the same object, evincing a design” to annihilate our trade, or reduce it to her control. The wisdom of our councils foresaw the premeditated blow, and prepared, not only to avert it, but to make it, in some degree, recoil upon the aggressor. An embargo, a measure that has been, more than any other measure of our Government, reviled and resisted, was advised and adopted. But, had it been observed with that spirit of patriotism with which it was advised, we should have seen, this day, all our disputes with the British Government adjusted. And gentlemen seem to overlook the history of the times, when they tell us that this law affected no one but ourselves. Were not the West Indies reduced almost to famine? The price of American produce was treble to what was ever before known there. The scarcity of American produce, not only made an impression upon the merchants, but it affected the Government; a proclamation was issued, inviting your citizens to violate their own laws, to set their Government at defiance to relieve British distress, occasioned by a measure which, we are told, operated only upon the American people. Some few were found so destitute of virtue and patriotism, as to attempt to profit by the invitation. When they arrived at Jamaica, they not only found the people suffering for provisions, but the Government in want of revenues. These unprincipled violators of their own laws are subjected to a new tariff of duty. But of this act of perfidy I do not complain, although honor might have been expected, even among these common violators of our laws; I would not have found fault, if every vessel and cargo which violated the embargo on the faith of that proclamation, had been seized and condemned as good and lawful prize. But the effect of the embargo was neither confined to America or limited to the West Indies, it reached England. A clamor was raised against the Ministry, for pursuing a system that compelled our Government to resort to a measure which affected Great Britain so seriously. I need neither refer to the popular tumults in England, or the speeches and proceedings in Parliament, to show that British interest was materially affected by the embargo. It was with a view to be

relieved from the operation of this act, that “Mr. Canning, on the 18th of January last, took Mr. Pinkney aside,” and informed him that an arrangement might, he believed, be made for adjusting the differences between England and America. Despatches were then immediately prepared for Mr. Erskine, and upon which he lost no time in proposing and making the arrangement which took place between him and our Government in April. This arrangement was not less gratifying to England, than agreeable to all parties here. It was understood in England, before Mr. Oakley’s departure, that an arrangement would soon be made with this country, and the event appeared to be as anxiously desired there, as it was promptly proposed, and universally approved, here. When Mr. Oakley, the bearer of the despatches, arrived in New York, it was announced that all our differences with England were in train of settlement, or about to be adjusted. And here, I may ask, what could authorize the conjecture of this adjustment, if the despatch of the 23d of January was the only instruction upon which the British Minister was to act? Our Government had never agreed to, nor could it be supposed that it would, consent to submit to the conditions contained in that despatch. But what was the arrangement? It contained no very valuable concessions on the part of the British. They agree to make us reparation for the attack on the Chesapeake, to revoke their Orders in Council as they respect our trade, and to send a Minister to form a treaty, upon all the points in dispute between the two countries. We have, by this arrangement, no treaty, nor even a promise of one, only that a Minister shall be sent with full powers, &c., which is different from a treaty. And what were the points in relation between the two countries to be settled? Nothing so very difficult, if there was a disposition to treat; nothing but what two honest men really disposed to adjust, might settle in two hours. The British Government ought to have felt itself bound by a sense of honor, as well as by the principles of justice, to have made us a prompt and satisfactory reparation for the attack upon the Chesapeake. Their Orders in Council are a palpable violation of the laws of nations, and an infringement upon our neutral rights, and ought never to have issued; yet, by the terms of the arrangement, we are required to give an equivalent. We must purchase the justice she renders us. The proclamation and non-importation act must cease to operate, and the embargo or non-intercourse act must, as it relates to her, be relaxed, and enforced against France. To this, we are all agreed. By this agreement, our Government give a new pledge of the sincerity of its desire for “amity and commerce” with the British nation. No one here, I believe, entertained a suspicion that this arrangement would be wholly disavowed by the British, for we had no great bargain to boast. But the first news we receive from that country is information of the disavowal. A stipulation, performed with good faith on our part, justified the expectation, that some reasons for the disavowal would be assigned by that Gov-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

ernment. And in vain do we look into the correspondence of the British Minister with our Government for the motives or reason of the disavowal of Mr. Erskine's arrangement. We find the whole tenor of that Minister's letter a tissue of prevarication and insolence.

Sir, an attentive examination of the documents accompanying the Message of the President, to which I beg leave to call the attention of the Committee, will, I think, clearly show the duplicity of Mr. Canning, and the studied reiterated insults of Mr. Jackson to our Government. It will show that the mission of Mr. Jackson was instituted, not for the purpose of conciliating, but with an intention to insult and irritate the Government of this country. We have no occasion to single out particular paragraphs of the British Minister's letters, as evidence of his effrontery and insolence, you may take the whole, the whole will furnish the best proof of his intentions. And, through this examination, let it be remembered that America is the injured party, Great Britain the aggressor, and Mr. Jackson the representative of his Government.

And I would not, sir, attempt to go into this investigation to prove what, to me, is so obvious, did not gentlemen contend that they cannot discover anything insolent or affronting in these letters, and that, therefore, they must vote against the resolution.

That part of the documents to which I will first request the attention of the Committee, is the second, third, and fourth paragraphs of a letter from Mr. Canning to Mr. Pinkney, dated 27th of May last, in these words:

"Having had the honor to read to you *in extenso* the instructions with which Mr. Erskine was furnished, it is not necessary for me to enter into any explanation of those points in which Mr. Erskine has acted, not only not in conformity, but in direct contradiction to them."

"I forbear equally from troubling you, sir, with any comments on the manner in which Mr. Erskine's communications have been received by the American Government, or upon the terms and spirit of Mr. Smith's share of the correspondence."

"Such observations will be communicated more properly through the Minister whom His Majesty has directed to proceed to America; not on any special mission, which Mr. Erskine was not authorized to promise, except upon conditions, not one of which he has obtained, but as the successor of Mr. Erskine, whom His Majesty has not lost a moment in recalling."

Here we see the spirit with which this mission is instituted, and the object for which it is designed. Affecting a tone of complaint, at the "manner" in which Mr. Erskine's communication had been received by the American Government, and at the "spirit" of Mr. Smith's share of the correspondence, Mr. Canning insinuates the displeasure of His Majesty, and that Mr. Jackson will communicate it. For he then tells Mr. Pinkney, that "such observations" will be communicated more properly through Mr. Jackson; that is, not respecting any reasons for the disavowal, but upon the points wherein Mr. Erskine had acted—in contradiction to his instructions? No, but to

the instructions which Mr. Canning had read to Mr. Pinkney *in extenso*, and with which Mr. Erskine was furnished, and upon the other two points, the manner our Government received the communications, and upon the *terms and spirit* of Mr. Smith's share of the correspondence. This, then, is the object for which Mr. Jackson is to be sent here—to chastise our Government for their rude manners and independent spirit. And we are not permitted to conjecture, that, after he shall have accomplished the primary object of his mission, he will condescend to treat with us. For Mr. Canning, in the next sentence, assures us, that this Minister is not to be sent "on a special mission, but as the successor of Mr. Erskine." Mr. Erskine, as resident Minister, had not full powers to treat, &c. Mr. Jackson, as his successor, has then no power to treat with us.

Sir, if we turn to the extracts from Mr. Pinkney's letter to Mr. Smith, dated 28th May, 1809, we find that Mr. Canning tells Mr. Pinkney that Mr. Erskine's instructions were founded on his own letters, stating the conversations he had held with Mr. Madison, Mr. Gallatin, and Mr. Smith, in which they had agreed to the conditions contained in the despatch. And here we detect Mr. Canning in a misstatement. Mr. Erskine did never communicate such information in his letters. He never suggested that our Government would agree to the three conditions. Nothing that passed in the conversations alluded to, would authorize him to make such a suggestion. Mr. Erskine, in a letter to the Secretary of State, dated 31st July, 1809, speaking of the disavowal, says, "that any vindication of his conduct (what ever he might have to offer) would be of no importance, further than it might tend to show that no intention existed on his part to practise any deception towards the Government of the United States." He could, doubtless, show copies of the letters in which he had detailed the conversations, about which Mr. Canning speaks, and that he (Mr. Erskine) had stated these correctly. If so, we shall see that these conversations neither authorize Mr. Canning to say or suppose that our Government would submit to the three conditions in the despatch. And it justifies the inference, that other instructions were furnished to Mr. Erskine. This inference being correct, accounts for Mr. Erskine's declaration, that he "conceived he had conformed to His Majesty's wishes; and to the spirit, at least, of his instructions upon that subject." But, could he have thought he conformed to those instructions contained in the despatch of the 23d of January? Certainly not; he must refer to other instructions.

Now, sir, let us see what is stated, or, rather, what is not stated, in the conversations spoken of by Mr. Canning. The Secretary of State, in a letter addressed to Mr. Erskine, bearing date the 9th of August, 1809, after stating the three points contained in the despatch of the 23d of January, requests Mr. Erskine "to give such explanations, as his candor would at once suggest, in relation to these imputed conversations." Mr. Erskine, in his answer, dated the 14th of August, relates

the conversations which he had communicated to Mr. Canning; in which there is nothing to justify the assertion of the British Minister, that it was understood in England, from these conversations, that the conditions mentioned in the despatch would be acceptable to this country. Mr. Madison is represented to have stated, "that every opinion which he entertained respecting the best interests of his country, led him to wish that a good understanding should take place between Great Britain and the United States, and that he thought that the obvious advantages which would thereby result to both countries were a sufficient pledge of the sincerity of his sentiments." Mr. Erskine, after stating the time when this conversation took place, adds: "But I never considered that Mr. Madison meant, that the Government of the United States would pledge themselves beyond the proposition respecting the embargo as above stated," and as proposed to the British Government, in August, 1808, "because that was the extent of the power of the President by the Constitution of the United States." It was not to be expected that the British Minister would require what the President had no power to give, a pledge for the course Congress would pursue in relation to the two countries. But provision was made by law for suspending the non-intercourse law as related to England, upon the revocation of her Orders in Council, so far as they affected our neutral rights. About this first point there could be no difficulty; and as to the second point, Mr. Erskine gives the following explanation:

"In the course of a private interview I had with Mr. Gallatin, the Secretary of the Treasury, he intimated that the non-intercourse law, which was then likely to be passed by the Congress, might be considered as removing two very important grounds of difference with Great Britain, viz: the non-importation act, as applicable to her alone; and also the President's proclamation, whereby the ships of Great Britain were excluded from the ports of the United States, while those of France were permitted to enter; but that, by the non-intercourse law, both Powers were placed on the same footing. He did not pretend to say that this measure had been taken from any motives of concession to Great Britain; but as, in fact, those consequences followed, he conceived they might be considered as removing the two great obstacles to a conciliation.

"He adverted also to the probability of an adjustment of another important point in dispute between the two countries, as he knew that it was intended, by the United States, to abandon the attempt to carry on a trade with the colonies of belligerents in time of war, which was not allowed in time of peace, and to trust to the being permitted, by the French, to carry on such trade in peace, so as to entitle them to a continuance of it in time of war."

Is there, sir, anything in this explanation that justifies the belief, that we were "willing to renounce, during the present war, the pretension of carrying on, in time of war, *all trade* with the enemies' colonies, from which we were excluded during peace?" So far from it, that an intimation is given of an expectation that the French would permit us to carry on such trade

in peace, which would entitle us to continue it in time of war. But, in order that no doubt should remain upon this point, Mr. Erskine feels no hesitation in declaring that he supposed Mr. Gallatin alluded to the trade from the colonies of belligerents, *direct* to their mother country, or to the ports of other belligerents, because the right to such trade had been the point in dispute. The right to carry on a trade from the colonies of belligerents to the United States had never been called in question. Yet, by the second condition of the despatch, we are to renounce *all trade* in time of war, and we are told that this has been proposed, because our Government were willing to assent to it. The fact we see is directly the reverse. These conditions were required to be recognised by us as preliminaries to an arrangement, and, for the same reason as before urged, that we consented to do so. But Mr. Erskine, in this same letter, says:

"That he never received any assurances from the American Government, that they would pledge themselves to adopt the conditions specified in Mr. Canning's instructions, as preliminaries, nor did he ever hold out such an expectation to His Majesty's Government."

He would not dare to make this assertion, if it be unfounded, because the British Government, having his communications, would not fail to contradict it, if incorrectly stated. We have seen, then, that, as to the two first conditions, our Government had never consented to recognise the second in any manner, nor either, as preliminaries; and that, Mr. Erskine had so stated it to the British Government.

Now, let us hear what he says about the third condition:

"As to the third condition referred to by you, specified in Mr. Canning's instructions, I have only to remark, that I never held any conversation with the members of the Government of the United States relative to it, until my late negotiation, or had ever mentioned the subject to His Majesty's Government; it having, for the first time, been presented to my consideration, in Mr. Canning's despatch to me of the 23d of January, in which that idea is suggested, and is stated to have been assented to by Mr. Pinkney."

Sir, the history of this third condition may be worthy of some further consideration, for the purpose of showing the "spirit" of the British Ministry. Mr. Canning, the author of this condition, first proposes it to Mr. Pinkney in London, on the 22d day of January last, and Mr. Pinkney, so far from assenting to it, tells him, as we find by his letter of the 23d of June, that it would never be admitted into a stipulation; yet, Mr. Canning tells Mr. Erskine that Mr. Pinkney had assented to it; "and he flattered himself that there would be no difficulty in obtaining a distinct and official recognition of these conditions from the American Government!" But let us see what Mr. Canning says to Mr. Pinkney upon this point, after the disavowal. In the extract of Mr. Pinkney's letter, dated the 23d of June, Mr. Pinkney observes:

"Upon the third condition, I said a very few words.

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

I restated what I had thrown out upon the matter of it, in an informal conversation in January, and expressed my regret that it should have been misapprehended."

"Mr. Canning immediately said that he was himself of opinion, that the idea upon which that condition turns, could not well find its way into a stipulation; that he had, nevertheless, believed it proper to propose the condition to the United States; that he should have been satisfied with the rejection of it."

On seeing the despatch published, as it was by a call of Parliament in May, Mr. Pinkney could not but feel surprised to find it contained such an entire misrepresentation of his opinions and conversations; he therefore takes occasion to express his regret that he should have been misapprehended.

Mr. Canning does not pretend that he had misunderstood him, or that Mr. Pinkney had ever assented to this condition, but confirms Mr. Pinkney's statement, by saying that he was himself aware that this condition could not be admitted into a stipulation, and he was willing it should be rejected. Yet, sir, the despatch requires a distinct and official recognition of this condition. And there we are told, that the arrangement was disavowed, because made without this official recognition. But Mr. Pinkney was not less surprised at the statement of his opinion, than were the President and Secretaries at the entire misstatement of their conversations with Mr. Erskine. On seeing the despatch, no time is lost in calling upon Mr. Erskine for an explanation. He readily and very candidly gives it, and declares that he never had communicated to the British Government such conversations as were stated by Mr. G. Canning in the despatch. The Secretary of State and the Secretary of the Treasury state the substance of the conversations they had held with Mr. Erskine on the subject, and this statement corresponds with that which Mr. Erskine tells us he made to his Government. We then discover a misstatement on the part of Mr. Canning, as respects the second condition. For it appears that the conversations related to the *direct* trade, from the colonies of a belligerent to the mother country, and for this obvious reason, that this was the point in dispute, a very different thing from "all trade," which is mentioned in the second condition. But let us recur once more to the extract from Mr. Pinkney's letter of the 23d of June, and hear what Mr. Canning says upon this point. Mr. Pinkney, after reciting the very conclusive arguments which he had urged, to show that this condition was of no importance to Great Britain, adds, as follows:

"Mr. Canning admitted that the second condition had no necessary connexion with the Orders in Council; and he intimated that they would have been content to leave the subject of it to future discussion and arrangement. He added, that this condition was inserted in Mr. Erskine's instructions, because it had appeared from his own report of conversations with official persons at Washington, that there would be no difficulty in agreeing to it."

The reason he assigns for inserting this condi-

tion, is equally fallacious and unfounded, as that he offers for inserting the third. Both of which conditions, he admits, are of no importance to Great Britain; the third, he was willing should be rejected; the subject of the second, they would have been content to leave to future discussion and arrangement. Why, then, is an official recognition of these conditions required, and the not obtaining it made a pretence for the disavowal? The answer is obvious; we had yielded our restrictive system, and Great Britain found her interest in disavowing the arrangement, and she is left without the semblance of reason or argument to palliate the perfidious act. No explanation is attempted to be given to our Minister in London. A show of displeasure is manifested at the conduct of Mr. Erskine, by his immediate recall, and a mere pretence of negotiating with us is kept up, by the appointment of a successor. But, when the name of this successor was known here, there was but little ground of hope that the object of his mission was to negotiate with us. But, notwithstanding our Government had, after the disavowal, and prior to the arrival of Mr. Jackson, seen the gross attempt of Mr. Canning, to render the prominent members of our Administration the authors of the inadmissible and odious conditions contained in the despatch to Mr. Erskine, and after the rude intimations to Mr. Pinkney, that this new Minister came not on a special mission; such was the forbearance of our Government, and such their desire for an honorable adjustment of our differences with that nation, that no time was lost in receiving and accrediting Mr. Jackson as the successor of Mr. Erskine.

Having given an honorable reception to this Minister, our Government had a right to expect that he would assign or attempt to assign some plausible, at least, if not solid and satisfactory reasons, for His Majesty's disavowal of the arrangement entered into with Mr. Erskine, and that he would propose a substitute. Justice and honor required that Government to do this with frankness and promptitude. That this should be done, was not only expected, but made a point with our Government, and I trust and believe that it will be made a point, and insisted on by the people of this country. We are the injured party, and Great Britain the acknowledged aggressor, admitting we are entitled to reparation for the injuries she has done us, making an agreement to satisfy us, which we observe, and fulfil with good faith on our part, and which she refuses to perform. Shall we not demand some explanation of her conduct, and some substitute for the agreement she has violated? No one will say this is unreasonable. Our attention is turned to Mr. Jackson, as the organ of his Government, who is to communicate to us this explanation, and to offer this substitute. But how egregiously are we disappointed! Instead of explanations, we meet with recrimination; instead of argument, abuse; instead of satisfaction for past injuries, we are jeeringly told that he has no proposals to make. Finding such was the temper, and such the language, of this new negotiator, the Secretary of

State, with great propriety, apprizes him that his communications must be in the written form.

And now, sir, in this written form, which is, I am confident, without a precedent or parallel in the history of diplomacy, it is not very difficult, however disagreeable it may be, to discover that the sole object and intent of Mr. Jackson, was to insult the American Government. A brief examination of the correspondence will warrant this assertion. What is the first language we find in his first letter? Petulant and recriminating. Protesting against the proceedings of our Government, as unprecedented, in requiring his communications to be in writing; affecting to view "it as a violation, in his person, of the most essential rights of a public Minister." He approaches the subject of the disavowal, by insinuating that our Government, from a knowledge of the circumstances under which the arrangement was concluded, could have expected no other result, than a refusal, on the part of his Government, to ratify it. His language to the Secretary of State is, "you could not but have thought 'it unreasonable to complain of the disavowal of an act, done under such circumstances, as could only lead to the consequences that have actually followed.'" What circumstances? He has not mentioned them. Such as were known to our Government—our Government knowing the basis upon which the arrangement was made, had no reason to expect it would be ratified, and therefore are to be made parties to the disavowal, which excludes all pretence of complaint. And, in the same letter, page 32, he enters into a train of reasoning to prove that his position was correct. He labors to establish the fact so material to his purpose, that our Government knew the instructions under which Mr. Erskine acted. For he says:

"Mr. Erskine then reports, *verbatim et seriatim*, your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you, that these latter were an equivalent for the original conditions; but the very act of substitution evidently shows that those original conditions were, in fact, very explicitly communicated to you, and by you, of course, laid before the President for his consideration."

Here we see Mr. Jackson assuming premises, for the purpose of establishing a conclusion that he determines to make. A substitute is one, acting for another, and, without attempting to show that other conditions were substituted, he proceeds to show what the act of substitution would prove; but he ought first to show this *act*, before he draws his conclusions. But he contents himself with this peculiar mode of reasoning, and declares—

"That he need hardly add, that the difference between these conditions and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious, to require no elucidation; nor need I (he adds) draw the conclusion, which I consider as admitted by all absence of complaint on the part of the American Government, viz: that, under such circumstances, His Majesty had an undoubted and incontrovertible right to disavow the act of his Minister."

Are we to take this, which is neither reason nor argument, but a perversion of both, as a satisfactory explanation of the disavowal? No, sir, Mr. Jackson seems unwilling to leave it here. He is not satisfied with his own conclusions, but he proceeds to add, in page 33:

"It is my duty, sir, solemnly to declare to you, and, through you, to the President, that the despatch from Mr. Canning to Mr. Erskine, which you have made the basis of an official correspondence with the latter Minister, and which was read by the former to the American Minister in London, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with this country, on the matter to which it relates."

Here Mr. Jackson adroitly substitutes for the three conditions, the "despatch," which contained the instructions and conditions, and tells the Secretary of State, and, "through him, the President," that "you," intending the President and Secretary of State, have made *that despatch* the basis of the arrangement with Mr. Erskine. It is his duty, he says, to make this declaration. If it was his duty, it could only be so, because he was so instructed. And, it will be remembered, that Mr. Canning informed Mr. Pinkney, that the successor of Mr. Erskine would be charged with "observations" to our Government, upon this point. Here, then, we have the observations he is instructed to make. In the next paragraph of this letter, he proceeds to say to the Secretary of State:

"If sir, it be your intention to state that no explanation whatever has been given to the American Government, of the reasons which induced His Majesty to disavow the act of my predecessor, I must, in that case, observe that, in the instructions conveying to him His Majesty's intentions, those reasons were very fully and forcibly stated; and if he has not transmitted them to you, I can only attribute it to the peculiar delicacy and embarrassment of his situation, and he might the more reasonably be led to that reliance on it, as a full and ample communication was also made upon the subject, by His Majesty's Secretary of State for Foreign Affairs, to Mr. Pinkney."

Let us, for a moment, look at the prevarication to which the British Ministers resort. Upon the disavowal being made, Mr. Pinkney is informed, by Mr. Canning, that an explanation will be given by the successor of Mr. Erskine. This successor tells our Government, that Mr. Erskine was instructed to explain; and if he has not, it was because a "full and ample" communication was made upon the subject by His Majesty's Secretary for Foreign Affairs, to Mr. Pinkney. In London we are referred to Washington, and here we are directed to London, for the explanation or reasons of this disavowal.

Mr. Jackson, in page 34, continues:

"As to the expectation entertained here, that the explanation of His Majesty's share in this transaction should be made through me, I might content myself with simply observing, that I was not provided with instructions to that effect, because it was known that the explanation in question had already been given."

And in page 35, the same letter adds:

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

"I say this, in regard to the original notification of His Majesty's determination, and of the motives of it, which, being already made, it could not be supposed, in London, that a repetition of them would be expected from me; and, of course, no such case, has been foreseen in my instructions."

Is not this an attempt to shuffle the question out of sight? First, we are told, that, as we knew Mr. Erskine's instructions did not authorize the arrangement, no explanation of the disavowal would be given; then, it is said, this explanation has been already given, and a repetition could not be expected. But, let us pursue Mr. Jackson upon this point, until he quits it, and see if we can discover anything but a disposition to persevere in insolence towards our Government. The Secretary of State, in his letter of the 19th of October, addressed to Mr. Jackson, informs him, that the President expected a formal and satisfactory explanation of the reasons for the refusal of His Britannic Majesty to carry the arrangement, made with Mr. Erskine, into effect; and that he persisted in that expectation, and, in the opinion, that there had been given no explanation, which could be deemed adequate, either as to the matter or the mode. Mr. Smith assures him, in this letter, page 47, that the declaration, "that the despatch from Mr. Canning to Mr. Erskine, of the 23d of January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates," was then, for the first time, made to this Government. And "that, if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made." This declaration explicitly negatives the fact, which Mr. Jackson had attempted to affirm by inference, that the "instructions" under which Mr. Erskine made the arrangement, were known to our Government. The Secretary of State then proceeds to say, page fifty-four:

"I conclude, sir, with pressing on your candid attention, that the least which the President could have looked for, in consequence of the disavowal of a transaction, such as was concluded by your predecessor, and carried faithfully into effect by this Government, was an explanation from yours of the disavowal, not through the Minister disavowed, but through his successor; an explanation, founded on reasons strong and solid in themselves, and presented neither verbally nor vaguely, but in a form comporting with the occasion, and with the respect due to the character and the good faith of the disappointed party."

Now, let us see, sir, how Mr. Jackson answers this. In his letter, of the 23d of October, addressed to the Secretary of State, he first observes, page 58, that he shall, "without loss of time, transmit Mr. Smith's letter to his Court, where the various and important considerations which it embraces, will receive the attention due to them." Passing over this paragraph, with one remark,

that it is a declaration incompatible with the idea, that he who makes it has full power to treat, I will proceed to what Mr. Jackson adds, upon the point of explanation:

"It could not enter into my view, to withhold from you an explanation, merely because it had been already given, but because, having been so given, I could not imagine, until informed by you, that a repetition of it would be required at my hands. I am quite certain that His Majesty's Government, having complied with what was considered to be the substantial duty imposed upon it on this occasion would, had this been foreseen, have added to the proofs of conciliatory good faith already manifested, the farther complacency to the wishes of the United States of adopting the form of communication most agreeable to them, and of giving, through me, the explanation in question. I have, therefore, no hesitation in informing you, that His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were, at the time, in substance, made known to you; no stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement."

Mr. Jackson here more explicitly declares what he had before, in a circumlocutory manner, insinuated; not barely that Mr. Erskine had violated his instructions, which was a question between himself and his Government, and not a sufficient reason for the disavowal, but that these instructions were known at the time of the arrangement by our Government. If Mr. Jackson did not violate the rules of diplomatic decorum, when he first made this insinuation, he is without excuse for his diplomatic rudeness, in presenting it in the more serious form of assertion, after he was informed by our Government that Mr. Erskine's instructions were not known here. But we have not yet reached the end of the correspondence upon this point. In the letter of the Secretary of State to Mr. Jackson, dated 1st November, page 66, he remarks—

"I abstain, sir, from making any particular animadversions on several irrelevant and improper allusions in your letter, not at all comporting with the professed disposition to adjust, in an amicable manner, the differences unhappily subsisting between the two countries. But it would be improper to conclude the few observations to which I purposely limit myself, without advertising to your repetition of a language implying knowledge, on the part of this Government, that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory assertion that this Government had no such knowledge, and that, with such knowledge, no such arrangement would have been entered into, the view which you have again presented of the subject, makes it my duty to apprise you that such insinuations are inadmissible in the intercourse of a foreign Minister with a Government that understands what it owes to itself."

A language, mild, dignified, and forbearing, evincing a sincerity for negotiation, and a patient

perseverance, not to be exhausted even by sneers and sarcasms, unless they conveyed the direct and detestable charge of falsehood. Is this met with a corresponding conciliatory disposition, on the part of the British negotiator? No, sir. And I regret that the answer is so obvious and conclusive in the negative. In the conclusion of his letter, addressed to the Secretary of State, dated 4th November, page 72, we find him obstinately persevering in his offensive insinuations and unfounded assertions. His own language is the best evidence of his fixed determination to treat our Government with insolence. It is as follows:

"You will find that, in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow, from the premises advanced by me, and, least of all, should I think of uttering an insinuation, where I was unable to substantiate a fact. To facts, such as I have become acquainted with them, I have scrupulously adhered; and, in so doing, I must continue, whenever the good faith of His Majesty's Government is called in question, to vindicate its honor and dignity in the manner that appears to me best calculated for that purpose."

He avows, that the conclusions he had drawn were correct, that his insinuations could be substantiated by facts, and that he should adhere to the assertions he had made. This is his meaning, for, in the preceding paragraph, he says: "But, as to the propriety of my allusions, you must allow me to acknowledge only the decision of my own Sovereign, whose commands I obey, and to whom alone I consider myself responsible." What language, sir, could be more insolent and affronting than this? It contains, not only an insinuation, but a reiteration, of the detestable charge, that our Government were guilty of a falsehood. If the Executive had continued the correspondence after this, it would have degraded itself and the country.

There, then, remained no other course to be pursued more proper than the one taken by the Executive, to refuse to receive any further communications from the Minister, and inform his Government of his offensive conduct. This course I approve. This part of the resolution has my approbation.

If, sir, there would remain any doubt, after examining those parts of the correspondence which I have already noticed, that Mr. Jackson has insulted our Government, and that he designed so to do, I would ask the attention of the Committee to what he says respecting the Orders in Council, the affair of the Chesapeake, and the object of his mission to this Government. These are subjects of importance, of great moment, and interest to the country, subjects to which the attention of the nation is at present directed. I may, therefore, sir, be excused, in turning again to the correspondence, to hear what this new Minister has to say in relation to them.

In the letter of Mr. Jackson of the 11th of October, page 33, of the printed documents, we find a paragraph, touching the Orders in Council, which cannot, I think, be mistaken. It is in the following words:

"The effect of this new order is to relieve the system under which the former orders were issued, from that which has always been represented in this country as the most objectionable and offensive part of it, the option given to neutrals to trade with the enemies of Great Britain through British ports on payment of a transit duty. This was originally devised and intended as a mitigation of what is certainly more correct but more rigid in principle, the total and unqualified interdiction of all trade with the enemy. If, however, this mitigation was felt as an aggravation, and, as has been sometimes warmly asserted, as an insult, that cause of complaint is now entirely removed. By the Order in Council of the 26th of April, 1809, all trade with France and Holland, and the ports of Italy, comprehended under the denomination of the Kingdom of Italy, is simply prohibited altogether. No option is afforded, and consequently no transit duty is required to be paid. In another respect, the Order in Council of the 26th of April must be admitted to be more restrictive than those of November, 1807."

Sir, let me now ask, if in this paragraph of studied, labored invective, it is possible for any one who understands the English language to perceive anything but insult? What, sir, after this country had suffered so much by these orders, and complained so loudly against them, because they excluded a portion of our trade, and shackled the remainder with a *transit* duty, are we to be told, that we are relieved by "simply prohibiting the trade altogether?" Not only told this, but required to receive the declaration as the unexceptionable language of friendly negotiation! No, sir, this is too much. The Executive would have been justified, I have no doubt, by the people, if it had peremptorily refused to receive any further communications than this first letter from Mr. Jackson. That it did not so refuse, is only to be attributed to the sincere and strong desire of the Government, to have an amicable adjustment of our differences with England.

By adverting to the preceding part of this letter, in which Mr. Jackson mentions the affair of the Chesapeake, we find he is not instructed to make reparation for that outrage, but upon terms that would be humiliating and disgraceful to this country. Our Government is required formally to revoke the proclamation, which has long since been done away, to stipulate, in fact, to purchase the proffered reparation. The seamen to be restored must not be either natural born subjects of His Majesty, or deserters from His Majesty's service.

Well, sir, as they were claimed, and forcibly taken as natural born subjects or deserters, of course, by the terms of this stipulation, none would be restored. We are required, after this length of time has passed, now to receive that sort of reparation which goes directly to justify the attack.

When we look for the object of Mr. Jackson's mission, we find throughout all his letters, I need not refer to any in particular, that he has no substitute to propose for the arrangement made with Mr. Erskine, fulfilled by our Government and

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

violated by his; that he has no proposals to make us, which might lead to a treaty; he is only authorized to receive and discuss proposals. We must be thus placed in the attitude of the offending nation. Is this to be endured? Sir, after the many injuries we have suffered, are we to acknowledge ourselves in the wrong, subscribe to a falsehood, by offering proposals of redress to the offender? Such disgrace is without precedent in the annals of diplomacy. And nothing but the spirit of insolence would have induced the British Minister to make such intimations to the American Government. How would the British Government have met such treatment from our Minister? Suppose we had murdered a few of His Majesty's subjects, seized and confined four or five thousand more, obstructed the navigation of the river St. Lawrence, plundered their property to the amount of fifty or sixty millions of dollars, of which His Majesty complained; entered into an arrangement for making reparation, which he observed with good faith, but which we had perfidiously violated; and after all this, sent a Minister to tell that nation that he had no proposals to make, that his instructions were "prospective," and to charge their Ministry with falsehood? The Minister who should thus trifle with that Government, would be instantly dismissed, if not ordered to leave the country.

Why disavow the arrangement so far as it relates to the affair of the Chesapeake? It is not denied but Mr. Erskine acted in pursuance of his authority upon this point. And when we are told that he violated his instructions, that reason does not apply to this part of the case, if it were admissible. The cause of the disavowal is to be found only in the monopolizing system of that Government. That system, which Mr. Jackson tells us, was "deliberately adopted and acted upon, in just and necessary retaliation of the unprecedented modes of hostility resorted to by the enemy." A system, justified only by the pretence, that it is, "to set bounds to that spirit of encroachment and universal dominion which would bend all things to its own standard." But, sir, we are not to be told at this day, that the object of the present war on the part of Great Britain, is resistance to the spirit of encroachment. It is a contest for commercial profits. Suppose we were to declare war against the Dey of Algiers because his subjects would not exchange their present form of Government for one like ours. Could we expect to be justified in the eyes of the world, in appealing to the necessity of this war as an excuse for violating the rights of other nations? No, sir, the pretence would be insolent, especially when offered to the injured. Yet we are required to take this as a satisfactory reason for British blockades, Orders in Council, and depredations upon our property!

Sir, if further evidence would be necessary to prove the insolence of this Minister to our Government, it is to be found in his letters delivered by Mr. Oakley to the Secretary of State, dated the 13th of November. In the first of these notes, Mr. Oakley is desired to state to the Secretary of

State "that Mr. Jackson had been grossly insulted by the inhabitants of Hampton, in the abusive language held by some of them to several officers bearing the King's uniform," that special passports were indispensable to his safety, "that this was the more necessary, because the language of our newspapers had a tendency to excite the people to commit violence upon his person." Not satisfied with the insolence he had offered to the Executive, he extends it to the people. Such is the barbarous state of American manners, that he shall be destroyed by the hand of violence, unless the Government extends to him their special protection! The object of the next note is to reiterate the offensive charge "for which he had been dismissed." "He had seen with much regret that facts which it had been his duty to state, had been deemed a sufficient motive for 'breaking off an important negotiation.'" The term "facts" is selected, and several times repeated in this note, for the purpose of repeating the insult to the Government. The plain English of this note is, if you are offended at what Mr. Jackson has said, he now repeats the assertions in the strongest terms the language affords! And yet, sir, do we hear gentlemen declare, that they cannot perceive any insult in all this! And they call upon us to prove the charge contained in the resolution.

Sir, if more evidence be necessary, it is to be found in the letter headed "Circular," which, under false and fallacious disguises, is an appeal to the people, and supports the assertion contained in the resolution. And this is a part of that Minister's conduct, upon which the Executive has expressed no opinion, and upon which I think this House bound by the duty we owe to ourselves and our country, to express an opinion. An appeal by a foreign Minister, from the decision of the Executive, to the people, merits the severest reprehension. If this be not an appeal to the people, what is it? Is it the usual course of diplomacy for Ministers to inform Consuls of the particulars relating to their attempts at negotiation, and authorize the publication of such information? No, sir. It is unprecedented. This publication could not be with this view, because the statement it contains is both "false and fallacious." It is false, in asserting that the negotiation was broken off, because he had stated facts. It is fallacious, in holding out the idea, that our Government were offended at his stating, first, "that the three conditions forming the substance of Mr. Erskine's original instructions were submitted to the Secretary of State." Secondly, that Mr. Jackson knew, that that instruction was the only one in which the conditions were prescribed to Mr. Erskine. Our Government did not dismiss him for stating these facts; but for repeating, after he was apprized that the declaration was inadmissible, that our Government *knew* that the despatch of the 23d of January contained the only instruction to Mr. Erskine under which he made the arrangement. A very different thing from the declaration, that Mr. Jackson knew it contained the only instructions. Yet, he

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

says, he could not imagine that offence would be taken at his stating these facts, and adhering to them, as none could be intended. Attempting, under this false and fallacious statement, to make an impression upon the American people, that our Government were offended and had broken off an important negotiation without cause. An act of atrocity, for which, I think, he should be ordered out of the country.

Sir, I have now waded through the correspondence of this "important negotiation," in which we have seen everything but a disposition to treat with our Government upon any of the points in relation between the two countries. The whole of Mr. J.'s conduct, from his first letter to the end of his circular appeal to the people, is irritating and insolent. Are we, then, silently to submit to be thus trifled with, and treated with contempt? The British plunder your property, blockade your markets, hover in your waters, attack your national ships, murder a part of the men and capture others; impress your fellow-citizens, disavow their solemn engagements, and send a Minister to insult your Government, and then appeal to the people to justify him, and Congress pass all this over in silence! Sir, I trust the spirit of the nation is not yet so low. If it is, well may we exclaim, "How are the mighty fallen!" The genius of liberty has fled from the country, and the spirit of patriotism forsaken the nation.

No, sir, our pacific policy has at length brought us to the "*ne plus ultra*," to the utmost point of forbearance. We have, while negotiating with that nation, been plundered of more property than would maintain a war, that should avenge our wrongs. Our attention, by repeated aggressions, is drawn from former injuries, and in contemplating the present we seem to have forgotten the past. But, sir, will you forget the sufferings of your captured seamen? Your seamen, whose constancy, whose valor, and whose enterprise, are themes of just and patriotic exultation to every American, and afford a subject of admiration to the world, call upon you for relief and protection. They are not only captured and imprisoned, but have been murdered, their blood has tinged your waves, while they have been engaged in the service of their country, and reposing their confidence in the protection of their Government. These wrongs are neither redressed, nor avenged. We are amused from year to year with new Ministers, and new documents, but reparation is neither made or promised. Sir, we have had enough of this, enough of these documents almost to make a shroud for our national sovereignty. If we are to get nothing better, let these be converted into cartridges, to assert our rights and avenge the injuries we have suffered. And I confess, sir, that the prospect before us seems to promise no alternative, but degrading submission or manly resistance. We have made an attempt to resist by a restrictive system, which failed in its object, for want of union and energy. We have seen that measure opposed by legislative resolves, tending to invite insurrection and legalize rebell-

ion; by processions and the tolling of bells, for the loss of liberty, under the pretence of supporting the Constitution. But rebellion and treason are always undertaken with patriotic pretences.

"Did not great Julius bleed for justice' sake?"

What villain touched his body that did stab,
And not for justice?"

While upon this subject, let me refer gentlemen to the doctrines they preached ten years ago. I will turn to the Journals of the first session of the sixth Congress, and read an extract from an answer presented by this House to the President's speech. It is as follows: "That any portion of the people of America should permit themselves, amidst such numerous blessings, to be seduced by the arts and misrepresentations of designing men into an open resistance of a law of the United States, cannot be heard without deep and serious regret; under a Constitution where the public burdens can only be imposed by the people themselves, for their own benefit, and to promote their own objects, a hope might well have been indulged, that the general interest would have been too well understood, and the general welfare too highly prized, to have produced in any of our citizens a disposition to hazard so much felicity by the criminal effort of a part to oppose with lawless violence the will of the whole." This, sir, is sound doctrine; it should have been enforced in 1808, upon those who advocated it in 1799?

Our divisions among ourselves, and our opposition to our own laws, are magnified to our rivals and our enemies. It was triumphantly said in England, that America was in a state of insurrection, resisting the operation of their own laws. There was too much truth in the assertion. You suffered the harmless rattle-box of opposition to assume the power of thunder, to cause your Government to tremble, and to break up your great system of national measures. The storm is passed. It should have been braved. You ought to have made the experiment, and to have demonstrated to the world that your Government has energy sufficient to make its laws respected. Nineteen-twentieths of the people would have supported you. But such was the apparent condition of the ship of State, swinging from her moorings, that neighboring vessels hauled off to gaze at her distress.

Hence the disavowal of Mr. Erskine's arrangement. His instructions were calculated for the meridian of the embargo. But, before the intelligence of his arrangement reached his Government, they were informed that we had receded from the patriotic stand, which had induced them to approach us with offers for negotiation. These considerations admonish us of the necessity of union and energy among ourselves; and I had hoped they would have produced an unanimous vote upon the resolution before us. But gentlemen have apprized us of their opposition. And, sir, I will beg the indulgence of the Committee, while I briefly examine some of the arguments gentlemen have offered to justify the vote they intend to give against this resolution.

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

The gentleman from Rhode Island (Mr. PORTER) has told us that he was not friendly to approbatory resolutions, and has referred the Committee to the disposition this House made of a resolution approving the President's conduct last Spring. That resolution was very different from this. That contemplated the expression of the approbation of this House, at the President's discharging with frankness and promptitude, a duty pointed out to him, by an express law. To votes of that sort, I shall always be opposed. But the resolution now before us is designed to express the opinion of Congress upon the conduct of a foreign Minister in this country both as it relates to the Government and the people whom we represent. If we believe that he has insulted the nation, shall we pass his conduct over in silence, especially when the history of it is communicated to this House by the Executive with his Message? No, sir; I think the welfare of the nation requires, that Congress should express an opinion upon this subject. But, sir, I did not expect to hear objections to this mode of proceeding come from that side of the House. This course was not opposed by the gentlemen in the opposition, when they were in the majority. I beg leave to call their attention to the Journals of the second session of the 5th Congress, and to an extract from an address of the House to the President, in these words: "Our abhorrence cannot be too strongly expressed of the intrigues of foreign agents to alienate the affections of the Indians, and to rouse them to acts of hostility against the United States. No means in our power should be omitted of providing for the suppression of such cruel practices, and for the adequate punishment of their atrocious authors." This authority answers that part of the gentleman's objection. He tells us that addresses have ruined one President. Sir, I differ from the gentleman upon this point; one President was, it is true, abandoned by his party, but it was because he preferred negotiation to war, then the favorite measure of his political friends, of the gentlemen who then declared, that to treat was disgraceful to this nation, but who now seem to prefer submission to war. Then they were willing to meet the calamities of war, now they tell us a war would ruin the country. But the gentleman has told us, that the opposition in this country is only a question between "the outs and ins." Sir, "there needs no ghost come from the grave to tell us that," especially after what fell from a gentleman on that side of the House in debate last Spring. But, however this may be the object with some zealous partisans, it is not the question with the people, their wish is to have the Government well administered. And, sir, let us for a moment change the scene. Suppose the outs had been in for several years past, what would have been their administration? If the gentleman's declaration be correct, and I am not disposed to question the truth of it, they must have pursued the same measures, which have been adopted; for their only objection is, that they were not the authors of those measures.

And I understand the arguments of the gentlemen in the opposition now go to approbate the course the Government has pursued for some years past. They would not go to war, at least since 1801. It is a calamity, of which they cannot think, but with horror. They would not submit, they declare, and as they would not have been able, by *treating*, to have made the belligerents respect the laws of nations and the rights of neutrals, they would have adopted as the only remaining policy, that which the Administration has pursued. That opposition should be made to the administration of our Government ought not to surprise us more than it should to hear of a ship encountering adverse winds in navigating the ocean; but there are certainly times and measures which ought to command union and energy. And we are told by the gentlemen that war will unite us. But, sir, are we to wait to see the enemy landing upon our shores, unfurling their banners, hear them beat to arms, and proclaim to the disaffected invitations to join in the attack, before we will unite in rallying round the standard of our own Government? I had hoped, and I will still hope, that we are not yet so lost to a sense of what concerns the honor and safety of our common country.

But, sir, we are told by a gentleman from Connecticut, (Mr. DANA,) who opposes this resolution, that although he might vote for a resolution to approbate the conduct of the Executive, he would be cautious of censuring, because it might be productive of injury to the country. Will not opposition to this resolution in effect censure the Executive, and approve the conduct of the British Minister? I am unable to view it in any other light. That gentleman is also opposed to the resolution, because it affects the reputation of the British Minister? Sir, while gentlemen are so tender of his reputation, will they forget the character of the Executive of their own Government? Mr. Jackson ought to have remembered that he came not only with a character, but to a character, and to a character not to be trifled with and disgraced by him or his nation.

But this resolution amounts to a declaration, that we intend to sustain our Government against the British, says that gentleman. Is it for this he opposes it? If this were the sole object of the resolution, no considerations of expediency should induce me to oppose it. I trust there is no hesitation among the American people upon this point. They are ready to sustain their Government against the British. They have done it once with success. And if it shall become necessary, they would exhaust the last cent of their treasure, and the last drop of their blood, before they would submit to British insolence and outrage. And although the gentleman reminds us of the exhausted state of the Treasury, that is neither sufficient cause for submission or of alarm. The genius of our Government does not confine our resources to the Treasury Department, they are to be found with the people, and will be ready when required.

But, sir, the principal argument of the gentle-

man from Connecticut, upon which he grounds his opposition to this resolution, if I understand him, is, that to have authorized the arrangement made by Mr. Erskine, a general letter of credence was not sufficient, a full power was requisite, that our Government ought to have required a copy or sight of this full power, and not having done so, they had mistaken their duty, which justified the disavowal of the arrangement. Sir, this argument goes very wide of the question before us, which is, whether the insinuations and charges against our Government are insolent; not on what ground that Government made the disavowal. But the argument of the gentleman places this upon a different basis from what Mr. Jackson or Mr. Canning have attempted to put it. In recurring to the letter of Mr. Jackson, addressed to the Secretary of State, 4th of November, page 71, Mr. Jackson says: "Never did I imagine, or anywhere attempt, to rest the right of disavowal upon that circumstance. Indubitably his agreement would nevertheless have been ratified, had not the instructions, which in this case took the place of a full power, been violated." Mr. Jackson here gives a conclusive answer, I think, to the gentleman's argument.

But that gentleman has told us, he opposes the resolution, because he considers it a war measure. If every act of Congress, which has been denominated a war measure, by gentlemen on that side of the House, was in fact such, we should have been at war long since. They attempted to give this character to the non-importation act, the non-intercourse, and the purchase of Louisiana. It is a sort of standing name, with which they christen almost every measure they oppose. It has become so common, that it is neither novel or alarming. But if war shall result from the expression of our opinion upon this question, let us prepare to face the foe. Although I cannot so consider it, I confess I can see but little prospect of treating with Great Britain but with the sword. But shall this House be deterred from adopting these resolutions, because it may displease Great Britain? No, sir, I trust that we are not yet prepared to yield to the influence of this consideration. If British resentment is to be apprehended, the path of our duty is plainly marked before us. Provide arms and ammunition for the militia, complete your unfinished fortifications, erect such others as may be deemed necessary, equip and call into service that portion of your Navy now in ordinary, and thus give that direction to the energies of the nation which the times may require. And when we are told to count the cost of war, let us remember the price of our independence and the worth of liberty.

Sir, I will not detain the Committee by attempting to answer all the objections gentlemen have urged against these resolutions. I may, however, be permitted to say, in answer to an honorable colleague of mine, who for two days favored the Committee with his remarks, (Mr. EMORY,) that I think he has exactly misconceived the intentions of both Governments, and is twice

mistaken: First, in believing that the British Government were willing to treat with us; and, secondly, in supposing that our Government have not been anxious to settle by negotiation all the points in difference between the two nations. If gentlemen fall into this two-fold error, it may, in some degree, account for their not being able, as they declare, to perceive anything like insult in the letters of Mr. Jackson. When the Executive of my country solemnly affirms a fact, I will not permit myself to wander in the field of conjecture, in search of an apology for a foreign Minister, who has insolently contradicted it.

Another honorable colleague of mine, (Mr. GOLD,) condemning the modern mode of blockading by proclamation, only declaring his opposition to the Orders in Council, and assuring us that he would not have submitted to the conditions required by the despatch from Mr. Canning to Mr. Erskine, expresses his surprise that the British should be charged with disavowing the arrangement, for the purpose of continuing their depredations upon our property. This, he says, would be downright swindling, of which that Government would not be guilty. Sir, when gentlemen undertake to exercise their charity for the conduct of the British towards us, let not the outrages they have committed be forgotten. The definition of the term swindling, informs us that her Orders in Council, and her blockading decrees, have given to swindling the sanction of a "system of great national policy." To retaliate on the enemy is a false pretence for their captures of neutral property.

Both of my colleagues have urged as a consideration against the passage of this resolution, that it is to lead to an immediate war, an event for which the State of New York is not prepared. I am not insensible of the situation of the State of New York. I know that in the event of war, that State has much to risk; but I also know, that her spirit is too independent and patriotic ever to buckle to the insolence of any foreign Power. But why will gentlemen contemplate war as the inevitable result from the passage of this resolution? Let them look at the correspondence, the resolution, the state of our country, the situation of England, and her hostile acts toward us, and then tell us if war be the result, who will have been the aggressor, and what the causes. No one will pretend that in the whole of the correspondence before us, there is to be found the appearance even of a disposition on the part of the British Government to treat with this country. Are we then to submit to all the injuries we have sustained without the hope of redress; nor dare to express the opinion we entertain upon the insolence and outrage we experience? If so, the American spirit has abandoned our country. But, sir, if the British Government shall not immediately recall the Minister, whose conduct has occasioned the discussion, I venture to say, there will be manifested throughout this nation a spirit of indignation and resentment, which it becomes us, as the representatives of the people, and the guardians of their

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

rights, neither to stifle or impair by our debates and divisions in this House. And I regret, sir, to have witnessed so much debate and opposition upon this occasion; I had hoped the question would have been taken without delay or division. I was unwilling to add to the time, or debate, this question had occupied, and I certainly would not, if I could have seen, as I wished, a prospect of deciding it without further debate.

It is not a party, but a great national question, in which all are equally interested. The consequences of division may be disastrous to our country. Unless we can unite on subjects of great national concern, our liberties are destined to speedy ruin. Can we so frequently and feelingly lament the fate of other nations, whose divisions and distractions have proved their destruction, and not take warning ourselves?

As well might you go "stand upon the beach and bid the main flood to 'bate his usual height," as to entertain the hope of negotiating with the temper which has been manifested by the British Government towards this country for years past. Our cause is just, our means are independent; let our union be perfect, and we shall then give a proper direction to the energies of the nation, command respect, and not add another to the list of ruined republics.

—
WEDNESDAY, December 27.

The SPEAKER presented to the House a petition of Peter Landais, praying to be allowed and paid his share of prize money in three vessels captured by him, in the Revolutionary war, while commander of the United States' frigate Alliance.—Referred to the Committee of Claims, and ordered that the petitioner have leave to lay copies of his said petition on the tables of the members.

Mr. BURWELL presented a petition of the delegates of the people of several settlements East of Pearl river, in the Mississippi Territory, praying for a division of the said Territory.—Referred to the committee appointed, on the sixth instant, on the petition of sundry inhabitants of the district East of Pearl river, in the Territory aforesaid.

Mr. NEWTON, from the Committee of Commerce and Manufactures, presented a bill authorizing the discharge of William Hawkins from his imprisonment; which was read twice and committed to a Committee of the Whole on Monday next.

On motion, by Mr. POINDEXTER,

Resolved, That a committee be appointed to inquire into the expediency of allowing an additional Judge to the Mississippi Territory, to reside in the county of Madison, and to have the same powers with those granted by law to the Judge of Washington county, in said Territory.

Ordered, That Mr. POINDEXTER, Mr. SEAVER, Mr. BURWELL, Mr. HEISTER, and Mr. SMELT, be appointed a committee, pursuant to the said resolution.

Mr. MORROW presented a petition of sundry inhabitants of the State of Ohio, praying that

the provisions of the "Act to extend the time of payment for the Public Lands of the United States," and that certain rights of pre-emption may be extended to them.—Referred to the Committee on the Public Lands.

Mr. BURWELL presented a memorial of William Lambert, of the State of Virginia, accompanied with a number of astronomical calculations, relating to the establishment of a first meridian of the United States, at the permanent seat of the General Government, and praying that such proceedings may be had therein as to Congress shall appear wise and expedient.—Referred to the Committee of Commerce and Manufactures.

A motion was made by Mr. NICHOLSON, that the House do come to the following resolutions:

Resolved, That a select committee be appointed to inquire into the expediency of making permanent provision by law for constructing public canals and roads, and for the general establishment of seminaries for education, throughout the United States; and that they have leave to report thereon to this House.

Resolved, That the same committee be instructed to inquire into the best means of providing, by law, permanent funds for the accomplishment of these objects, and that they, in like manner, have leave to report thereon to this House.

The resolutions were read, and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to authorize the surveying and making certain roads in the State of Ohio, as contemplated by the Treaty of Brownstown, in the Territory of Michigan;" to which they desire the concurrence of this House.

CONDUCT OF THE BRITISH MINISTER.

The House again resolved itself into a Committee of the Whole on the resolution approving the conduct of the Executive in refusing to hold further communication with Francis J. Jackson.

Mr. MILNOR said, he would have been well satisfied if this question had not been brought before the House; not because he was disposed in any way to question the right of the Executive to dismiss a foreign Minister for insolence or misbehaviour; not because he believed that resolutions approbatory of the conduct of the President were improper; but because he had unhappily seen that this resolution had been productive of a division of sentiment, and would not pass through the House by an unanimous vote.

On questions of general policy, said Mr. M., where particular projects are brought forward for the consideration of the House, it is the right and duty of every member to investigate for himself, to judge of the propriety or impropriety of the measure proposed, and to give his vote accordingly. Every member is at full liberty to decide for himself. Nor am I about to question the right of members to decide for themselves on this question. But I consider the present materially different in its nature from questions of general policy; and however gentlemen may feel, although they may have some doubts as to the

H. OF R.

Conduct of the British Minister.

DECEMBER. 1809.

policy of the conduct of the Government, yet whenever a dispute arises between the Administration and a foreign Government, unless the conduct of our Executive be so clearly adverse to the interests of our country that it cannot be sanctioned, the dignity of our country and the dictates of sound policy require that it should receive our undivided support. True, sir, I heard a gentleman (Mr. GARDENIER) say the other day, that he was waiting to receive evidence upon this question; that he had not made up his mind and did not mean to do so till he heard both sides of the question. Probably the gentleman may be correct in his notions; but I cannot boast, upon a question of this nature, that I am so cool, so dispassionate, so completely clear of all prejudice, as to feel myself a perfect blank, as it were, open to any impressions to be made on it by the evidence which may appear. In all questions on which the Administration and constituted authorities of the nation are in opposition to foreign insolence, I acknowledge that my impressions are in favor of my Government; and it will require very strong evidence indeed to induce me to give a vote against them. In the case before me, I am free to say that, after giving it the fullest consideration of which I am capable, my judgment coincides with my feelings in saying that the Executive Government has acted correctly. Other gentlemen, whose patriotism I cannot permit myself to doubt, have declared that, on examining the correspondence, they have not been able to discover the insult offered to the Government.

I confess, sir, as I have never felt any difficulty in ascertaining in what part of the correspondence the insult lay, and as the procedure appears perfectly clear to me, I have felt somewhat astonished that other gentlemen have viewed it in a different light. But this is only another proof that on subjects of importance there will always be difference of opinion between those honestly desirous of deciding correctly. Although the documents on this subject have been repeatedly referred to, and quotations copiously made, I shall find it necessary again to call the attention of the Committee to them, but shall make the quotations as short as possible, not desiring to tire the patience of the Committee.

Mr. Jackson, in his first letter, says: "You have not, in the conferences we have hitherto held, distinctly announced any such complaint (of the disavowal); and I have seen with pleasure, in this forbearance on your part, an instance of that candor, which I doubt not will prevail in all our communications, inasmuch as you could not but have thought it unreasonable to complain of the disavowal of an act done under such circumstances as could only lead to the consequences which have actually followed." One of the gentlemen from New York who have spoken (Mr. GOLD) stopped here, after reading this passage, to inquire what were the circumstances to which the British Envoy here alluded, which he said were detailed in the succeeding paragraph, which is as follows:

"It was not known when I left England, whether

Mr. Erskine had, according to the liberty allowed him, communicated to you *in extenso* his original instructions. It now appears that he did not. But, in reverting to his official correspondence, and particularly to the despatch addressed on the 20th of April, to His Majesty's Secretary of State for Foreign Affairs, I find that he there states, that he had submitted to your consideration the three conditions specified in those instructions, as the groundwork of an arrangement which, according to information received from this country, it was thought in England might be made, with a prospect of great mutual advantage. Mr. Erskine then reports *verbatim et seriatim* your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you, that these letters were an equivalent for the original conditions, but the very act of substitution evidently shows that those original conditions were, in fact, very explicitly communicated to you, and by you of course laid before the President for his consideration. I need hardly add, that the difference between these conditions and those contained in the arrangement of the 18th and 19th April, is sufficiently obvious to require no elucidation; nor need I draw the conclusion, which I consider as admitted by all absence of complaint on the part of the American Government, viz: that, under such circumstances, His Majesty had an undoubted and incontrovertible right to disavow the act of his Minister."

The gentleman from New York took considerable pains to show us that the meaning of the words "such circumstances" was applicable to the expressions contained in this paragraph. I agree with the gentleman that such is the case; but I know not how, by some kind of argument which I was unable exactly to comprehend, the gentleman slipped round what I deem the offensive part of the paragraph, and concluded that Mr. Jackson had only meant to state that the conditions contained in the instructions were proposed to Mr. Smith. After having said that it could not be thought unreasonable to disavow an arrangement concluded under such circumstances, Mr. Jackson says: "It may have been concluded between you that these latter were an equivalent for the original conditions; but the very act of substitution evidently shows those original conditions were in fact very explicitly communicated to you, and by you of course laid before the President for his consideration." What does he mean by the very act of substitution? Is not this one of the "circumstances" to which he alludes? "Nor need I draw the conclusion," he adds, "which I consider as admitted by all absence of complaint on the part of the American Government, viz: that under such circumstances His Majesty had an undoubted and incontrovertible right to disavow the act of his Minister." To me there can be nothing more plain and explicit than the insinuation contained in this paragraph, that the Administration of this Government were fully acquainted with the powers of Mr. Erskine. His language, in common terms, is this: It may have been concluded between you two to substitute the arrangement made for that authorized by the instructions; and inas-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

much as you made a bargain which you knew our agent was not authorized to make, and in which you overreached us, it must be unreasonable in you to complain of the disavowal of it. This is the plain meaning of his language—and yet gentlemen are unable to see the insult!

In his next letter Mr. Jackson repeats the insinuation—he says: “I have, therefore, no hesitation in informing you, that His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman’s instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were at the time, in substance, made known to you; no stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement.” Here, sir, Mr. Jackson, fearful lest the Secretary of State should not have noticed his insinuation in the letter of the 11th, is determined immediately to call his attention to it, to repeat the insinuation in such a way that Mr. Smith should not again misunderstand him. “These instructions I now understand, by your letter, as well as by the obvious deduction which I took the liberty of making in mine of the 11th instant, were at the time in substance made known to you. No stronger illustration, therefore,” says he, “can be given of the deviation from them (Mr. Erskine’s instructions) which occurred, than by a reference to the terms of your agreement.” That is to say, addressing Mr. Smith: “You have knowingly induced Mr. Erskine to deviate from his instructions, of which you were fully apprized. This obvious deduction I took the liberty of making in mine of the eleventh instant, and now repeat; and it is not necessary to give you any other reason for the disavowal of the arrangement than the strong illustration of comparing it with the instructions in relation to it.” It is impossible to apply to this extract any other meaning than this. He says in effect to Mr. Smith “you knew very well the event of Mr. Erskine’s instructions, and therefore I need only refer you to the deviation from them as a reason for the disavowal.”

Mr. Jackson having repeated the insult in such terms, Mr. Smith found it necessary to notice it; and he called Mr. Jackson’s attention to it in his letter of November 1, as follows:

“I abstain, sir, from making any particular animadversions on several irrelevant and improper allusions in your letter, not at all comporting with the professed disposition to adjust in an amicable manner the differences unhappily subsisting between the two countries. But it would be improper to conclude the few observations to which I purposely limit myself, without adverting to your repetition of a language implying a knowledge on the part of this Government that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this Government had no

such knowledge, and that with such a knowledge, no such arrangement would have been entered into, the view which you have again presented of the subject, makes it my duty to apprise you, that such insinuations are inadmissible in the intercourse of a foreign Minister with a Government that understands what it owes to itself.”

Now, sir, we will suppose, for argument’s sake, that Mr. Jackson had really not intended to offer an insult to the Administration in his letters of the 11th or 23d of October. If such were the fact, what ought to have been the conduct of Mr. Jackson on receiving this intimation? He is told “we have understood your language to convey an insinuation that the arrangement was entered into with a knowledge on our part that Mr. Erskine’s powers were incompetent, which we conceive grossly insulting to us as the Administration of the country.” Should not Mr. Jackson, if he not did really mean the insinuation with which the Administration charged him; was it not his incumbent duty, to have gone into an explanation—to have said to the Secretary of State “you have misunderstood my meaning: I did not mean any such charge, but to state a plain and simple fact, that Mr. Erskine’s instructions did not authorize the arrangement entered into by him.” If, sir, Mr. Jackson had come forward in a manly and open manner, as he ought to have done, with an avowal of this kind, there would have been no collisions with the Administration on this subject. It was evidently the wish of the Administration that Mr. Jackson should exculpate himself, and the express insinuation is pointed out at which offence was taken, that he might have an opportunity to explain it away. What was his conduct? Did he attempt an explanation? Did he attempt any kind of apology? On the contrary, he repeated it in a manner, in my opinion, still more violent than in the first instance. In his letter of the 4th of November, he says: “You will find that in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and least of all should I think of uttering an insinuation where I was not able to substantiate a fact. To facts such as I have become acquainted with them I have scrupulously adhered, and in so doing I must continue, whenever the good faith of His Majesty’s Government is called in question, to vindicate its honor and dignity in the manner that appears to me best calculated for the purpose.”

Alluding to a caution Mr. Smith had given him, understanding clearly, as he must have done, that our Government conceived themselves to be insulted by insinuations, having it fully and fairly laid open to his view, instead of disavowing it, he says: “least of all should I think of uttering an insinuation where I was not able to substantiate a fact.” Sir, Mr. Jackson not only repeated the insult, but avowed his determination to persevere in it, declaring that he must continue in so doing. What could our Government do under such circumstances, but declare that they would hold no

further communication with him? Was there a possibility that our Administration, without degrading themselves in the eyes of their constituents, and in the opinion of the world, could continue a correspondence with a man who acted in this way? If they had, sir, I from my heart should have despised them for it.

But, sir, the resolution has been objected to on the ground that it is about to precipitate us into a war, that there is something warlike in its aspect. If there be, I confess I am at a loss to comprehend it. A dispute has arisen between a foreign Minister and the Administration of this Government. The latter, from a respect for itself and for the dignity of the nation, thought it necessary to dismiss the Minister. The nation from whom the Minister came may possibly consider this as a justification of war; but the light in which they may view it will depend essentially upon the course of policy which they mean to pursue. If they are disposed to go to war with us, they would not want pretexts, if this had never occurred. If, on the contrary, they conceive that their true policy consists in peace and amity with us, they will condemn the conduct of the Minister, call him home, and return in his place a man more likely to conciliate our friendship.

If a war, however, is to grow out of this proceeding, it will be founded on an act of the Administration, and not upon any act about to be done by us. The act has already taken place, for which, if for any, war will be made; the Minister has already been dismissed. The offence, if it is one, has already been committed; and I cannot see in what possible way the passage of this resolution can operate to produce a war, if the act of dismissing the Minister be not deemed cause of war. Instead of inducing war, it appears to me that the passage of this resolution, particularly if carried by an unanimous vote, would have tended to preserve this nation in peace. It never could be a cause of war to Great Britain to see the constituted and delegated authorities of the country in union with each other. If war is to grow out of it, it will arise from another source, from our own divisions; from seeing that a considerable portion of the people are opposed to the Administration, and ready to condemn them, almost without trial, in a question of difference between themselves and a foreign Minister.

The resolution has been objected to by most gentlemen who have spoken against it, and particularly by a gentleman from New York, (Mr. EMMET), on the ground that there was still a probability of accommodation of our differences, and that this resolution is calculated to widen the breach between the two countries. Was there a probability of an accommodation taking place between Mr. Jackson and the Administration? Can any inference drawn from one circumstance induce a belief for an instant that there was a probability that an arrangement of mutual accommodation would have taken place between the two countries? An arrangement had been made between our Government and the then British Minister, Mr. Erskine, on such terms as

would have been mutually advantageous. The British thought proper to disavow the arrangement and substitute another Minister. This, surely, did not indicate a desire to accommodate. In making this selection of a Minister, whatever was their view, they were very unhappy in their choice. They chose a man once objected to, if I am rightly informed, by our Minister in London (Mr. King,) as unacceptable to the American people. They chose a man conspicuous in a transaction which was one of the basest in the annals of the world; a man sent to Denmark to negotiate with a fleet and army at his heels, and who immediately, on failure of compliance with his demands, set his fleet and army upon the nation which had preserved a uniform neutrality, resisted an alliance with either belligerent, and given the British Government no plea for the attack. I do not charge this upon Mr. Jackson as his fault, or say that he is accountable to the world for the transactions which followed the negotiation at Copenhagen; but, as the Minister who was the precursor of that horrid transaction, prejudices had arisen against him which incapacitated him from negotiating to advantage with a neutral nation. It is said, too, how correctly I will not pretend to say, that there were a large number of Ministers unemployed at the Court of Great Britain, and yet that the British Ministry had thought proper to select Mr. Jackson and send him here—for what reason I do not know. I mention the circumstance to show that they were unhappy in their choice, if they were amicably disposed to this country.

The circumstances attending the nomination of Mr. Jackson strongly induce me to believe that the British Government did not calculate on his making an amicable arrangement. They disavowed an arrangement already concluded, recalled the Minister who had made it, and sent Mr. Jackson here, without instructions to make any new propositions. After trying our patience by disavowing the arrangement already carried into effect on our part, and refusing to fulfil any part of it, was it to be expected that they would negotiate with us on fair and honorable terms? I think not. But, nevertheless, when Mr. Jackson came into this country, the American nation (pleased with the declaration of Mr. Canning, that although the arrangement was disavowed, a Minister would be sent out to negotiate, and that he had no doubt the differences between the two countries would be soon settled) endeavored to flatter themselves into a belief that something amicable might grow out of his mission. They were soon undeceived.

In the very first letter of Mr. Jackson to Mr. Smith, after the latter had informed him that it was deemed proper to pursue the written form in their correspondence, he writes thus:

"I have had the honor of receiving your official letter of the ninth instant, towards the close of which you inform me that it had been thought expedient to put an end to all verbal communication between yourself and me, in discussing the important objects of my mission. Considering that a very few days have elapsed

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

since I delivered to the President a confidential letter from the King, my master, and that nothing has been even alleged to have occurred, to deprive me of the facility of access, and of the credit to which, according to immemorial usage, I am by that letter entitled, I believe there does not exist in the annals of diplomacy a precedent for such a determination between two Ministers, who have met for the avowed purpose of terminating amicably the existing differences between their respective countries: but, after mature reflection, I am induced to acquiesce in it by recollection of the time that must necessarily elapse before I can receive His Majesty's commands upon so unexpected an occurrence, and of the detriment that would ensue to the public service, if my ministerial functions were, in the interval, to be altogether suspended. I shall, therefore, content myself with entering my protest against a proceeding which I can consider in no other light than as a violation, in my person, of the most essential rights of a public Minister, when adopted, as in the present case, without any alleged misconduct on his part. As a matter of opinion, I cannot, I own, assent to the preference which you give to written over verbal intercourse, for the purpose of mutual explanation and accommodation. I have thought it due to the public character with which I have the honor to be invested, and to the confidence which His Majesty has most graciously been pleased to repose in me, to state to you unreservedly my sentiments on this point. I shall now proceed to the other parts of your letter, and apply to them the best consideration that can arise from a zeal proportioned to the increase of difficulty thus thrown in the way of the restoration of a thorough good understanding between our respective countries."

If Mr. Jackson was really the Minister of peace, and was sent in the spirit of conciliation, was this the kind of language to be addressed to the Government with which he was treating? Was the assertion that the deprivation of oral correspondence had no precedent in the annals of diplomacy, and the protest against the violation of his rights, the language of amity? Was there anything improper in confining their communications to the written form? Was it not a mode of procedure common in every nation? Did not Mr. Canning oblige Mr. Pinkney to confine his communications to the written form—and did our Minister protest against it as a breach of his privilege? No, sir; he knew it was a right which the Government possessed, and he complied with its injunctions. I take this letter to be altogether an insolent one. I conceive that in the very first paragraph the British Minister absolutely insulted the Government; although it was not on that part of his letter that the Government thought proper to notice him. The whole correspondence is in my opinion one tissue of insolence on his part.

Gentlemen have attempted to show that, although Mr. Jackson's language was not as polite as it ought to be, yet the language of Mr. Smith was equally indecorous. They cannot point to the parts of Mr. Smith's letter which are indecorous. They have indeed pointed to Mr. Smith's contradiction of Mr. Jackson on the point of Mr. E. having more than one set of instructions. If it had been on the part of Mr. Smith merely a matter of opinion that Mr. Erskine had other instruc-

tions than those published, and Mr. Jackson had contradicted him, Mr. Smith would have been wrong in asserting or insinuating that Mr. Erskine had other instructions. But Mr. Erskine, in his letter to Mr. Smith, explicitly declares that he had other instructions. He alludes to his "several letters of instruction." Mr. Smith had therefore undoubted evidence that there were other instructions, and he was justified in saying so. It was not an impeachment of the veracity of Mr. Jackson, because Mr. Jackson speaks of information derived from Mr. Canning. His evidence on the subject, therefore, was circuitous. Mr. Smith's was direct from Mr. Erskine, who declares that he had other instructions: and I question whether the gentleman who made the remark on Mr. Smith's language can have in reality any doubts but that Mr. Erskine was correct on this point.

Sir, in my view, in the whole of the correspondence, Mr. Smith has acted in a correct, manly, and dignified manner. He has sustained the credit of the Administration, and of his country, in the correspondence, in a manner which, in my opinion, has done him great honor.

The gentleman from Connecticut (Mr. DANA) entered into a long and learned dissertation on a subject which had no connexion with the question before the House; but I listened to him with pleasure, because he displayed great talent, ingenuity, and research, in the history he gave us of the grounds of treaties and of the manner in which they are concluded. The information which he gave us amounts to this; that, in the conclusion of a treaty, a Minister must be possessed of a full power, or of instructions to take the place of a full power. I could not exactly ascertain what was the precise object of the gentleman in the course in which he took. It appeared to me, however, that the only object he had in view was to show that in the arrangement made, the Administration had, by a neglect of duty, laid themselves open to a charge of misconduct on their part, and had thus given to the British Government a fair opportunity to disavow the arrangement, without a right on our part to complain. If that were his object, I confess that I do not conceive his arguments to have been conclusive. I acknowledge that in order to form a treaty, the Ministers concluding it must have either a full power or special instructions to conclude particular points; and if they have those powers, or they violate their instructions, that the treaty is not binding on the nation whose agents they are. Having made this concession, I will offer a few observations to show what I believe to have been the nature of the arrangement made. To my mind there is nothing of the treaty-kind in it. Was there any mutual stipulation, any contract mutually signed by both parties? Nothing of that kind. Mr. Erskine comes forward and says to Mr. Smith:

"WASHINGTON, April 19, 1809.

"SIR: I have the honor to inform you, that I have received His Majesty's commands, to represent to the Government of the United States, that His Majesty is

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

animated by the most sincere desire for an adjustment of the differences, which have unhappily so long prevailed between the two countries, the recapitulation of which might have a tendency to impede, if not prevent an amicable understanding. It having been represented to His Majesty's Government, that the Congress of the United States, in their proceedings at the opening of the last session, had evinced an intention of passing certain laws, which would place the relations of Great Britain with the United States upon an equal footing, in all respects, with the other belligerent Powers, I have accordingly received His Majesty's commands, in the event of such laws taking place, to offer, on the part of His Majesty, an honorable reparation for the aggression committed by a British naval officer, in the attack on the United States' frigate *Chesapeake*," &c.

I believe that the papers we have before us on the subject only show us that an offer was made by Mr. Erskine in relation to the *Chesapeake*, in the name of his Government, and accepted by ours. There was no mutual stipulation by which the parties were bound to do a certain thing. The offer was spontaneously made by the British Government and spontaneously accepted on our part. On their part it is true a stipulation was to be executed, but none on ours, except a mere acknowledgment of satisfaction.

As respected the Orders in Council, also, Mr. Erskine stated that His Majesty having seen a disposition in this country to place the two belligerents in a state of equality in our commercial relations with them, had instructed him, in the event of such laws passing as would effect that object, to say that the Orders in Council would be withdrawn as respects the United States on a certain day. What part had the Administration in this transaction? The proclamation issued by the President was a mere Executive act. The non-intercourse law passed at the session preceding, authorized the President, in the event of the revocation of the Orders in Council, or the modification thereof, so that they should not affect the lawful commerce of the United States, not to withdraw the embargo and non-intercourse acts, for that had been conditionally provided for by the Legislature; but, to declare the existence of the event on which the revocation of the law as to Great Britain and her dependencies was to take place. It was no stipulation made by our Administration; for they had no power to make such a stipulation. True, sir, Mr. Canning tells Mr. Erskine, in his instruction, to obtain a stipulation that we were to continue the non-intercourse law as to France; but Mr. Canning was sufficiently acquainted with the organization of this Government to know that the Administration could do no such thing, the regulation of it depending wholly upon Congress. It, therefore, is not only a fact that the President had no power to enter into a stipulation, but that the British Ministry must have known it. It then appears that on the part of Administration there was no stipulation or agreement, but an acceptance of the proposition made by the British Government. The latter thought proper to make propositions on the existing circumstances, which were ac-

cepted. No convention or preliminary agreement was signed by the parties. This having been the situation of the case, I can see nothing of the treaty-kind, nor anything which required the British Minister to produce his full power or his particular instructions on the subject, or which made it necessary for the President to require them.

We will suppose, sir, for the sake of argument, the Administration had, when Mr. Erskine came forward with his propositions, expressed a doubt of his honor or veracity, and required of him to produce his instructions or authority, previous to their acceptance on our part—what, in such case, would and ought to have been Mr. Erskine's conduct? If he had done what a respect for himself and the dignity of his country required, he would have ceased correspondence with our Government, he would have said that the American Government was unwilling to come to an accommodation, because, when he had offered terms, they had questioned his authority and doubted his being the confidential agent of the British nation. And what would have been the consequence of such a proceeding on the minds of the people? Gentlemen who now come forward in opposition to this resolution would have said that the American Administration was not amicably disposed to Great Britain; that when an opportunity had offered for accommodation, the American Government, instead of accepting the offer, had treated with insolence and outrage the British Minister; and it would have been another circumstance to add to the many already exhibited to prove that the Administration were in favor of war with Great Britain. I challenge any gentlemen in opposition to say whether such would not have been the course pursued. There cannot be a doubt of it.

If then there was, in the arrangement which was concluded between our Administration and the British Minister, nothing like the mutual stipulation of a treaty, I would ask how the arguments of the gentleman from Connecticut apply? Or how he could make out his argument that the Administration had indeed made a mistake? The gentleman frequently repeated that if indeed the Administration had concluded the agreement without seeing Mr. Erskine's instructions, they had committed a mistake, avoiding, as he said, giving it a harsher name, thereby implying that he conceived it merited a harsher designation. From what I have said I must conclude that the Administration were not in this case bound to scrutinize the instructions of Mr. Erskine.

The gentleman from New York (Mr. EMOTT) told us that previous to the perusal of the documents last communicated by the President he had indeed doubted whether Mr. Canning had in reality received such communications from Mr. Erskine as to induce him to believe that the three propositions would be accepted by the Government; but that upon the perusal of the documents his mind had become completely convinced that, whatever might have been the nature of the communications between the Minister and the gen-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

gentlemen to whom he alludes, there was no doubt Mr. Erskine had given Mr. Canning to understand that he had received from those gentlemen communications the same in substance as those mentioned in the despatch of the 23d of January. Sir, if the evidence the gentleman could derive from those documents was confined to the single expression that such and such parts of Mr. Erskine's correspondence were read to him, (Mr. Pinkney,) he might rationally draw some inference of that kind. But I would ask whether a loose expression, merely stating that Mr. Canning had read to him letters containing such things, is to be taken as positive evidence in contradiction to the express declaration of Mr. Erskine, in repeated instances. Mr. Pinkney says, "These instructions (of 23d January) together with the passages in Mr. Erskine's letter, written, I believe, in December last, which contained the above-mentioned representation and some other details, which I ought not to repeat, Mr. Canning read to me." This is the distinct sentence which has communicated to the gentleman from New York the positive fact of Mr. Erskine's having made such communications to his Government. But, sir, in the last correspondence between Mr. Erskine and the Secretary of State, the former expressly states what he understood Mr. Smith and the other gentlemen to have said, and what he communicated; and in this I do not find anything authorizing the inference that the American Government would accede to those three propositions. After stating to Mr. Smith what he deemed to be the substance of the conversations, which had taken place between himself, Mr. Madison, Mr. Gallatin, and Mr. Smith, he says: "Such was the substance, sir, of the unofficial conversations which I had held with Mr. Madison, Mr. Gallatin, and yourself, which I did not consider or represent to His Majesty's Government as intended with any other view than to endeavor to bring about the repeal of the Orders in Council, by showing that many of the obstacles which had stood in the way of an amicable adjustment of the differences between the two countries were already removed, and that a fair prospect existed of settling what remained; since the United States exhibited a determination to resist the unjust aggressions upon her neutral rights, which was all that Great Britain had ever required; but I certainly never received any assurances from the American Government that they would pledge themselves to adopt the conditions specified in Mr. Canning's instructions as preliminaries; nor did I ever hold out such an expectation to His Majesty's Government." Now, sir, if the gentleman from New York, after reading this slight expression of Mr. Pinkney, stating that certain extracts of a letter from Mr. Erskine were read to him, and also reading this paragraph, in which the latter gentleman expressly asserts that he never did authorize the expectation apparently entertained by Mr. Canning, can yet think that he did really authorize such an expectation, his opinion must be very different from mine. On the one hand I see an equivocal expression con-

veying no positive idea on the subject; on the other hand I see a positive declaration of Mr. Erskine, in most explicit terms, that he never made any such communication as that suggested.

Some of the gentlemen in question, one particularly (Mr. GOLD) have alluded to the Orders in Council in the language of Mr. Jackson, and styled them a great object of national policy. Are they indeed a great object of national policy? I cannot view them in that light. If they be so considered, let us inquire what is the object to be effected by them? The British Government has repeatedly said that the object is to retaliate on the enemy, to strike at the enemy through neutrals, because he cannot be got at in any other way. The British Government has endeavored to convince this country that such was the sole object of them, and that so long as the French decrees are in force, so long will the Orders in Council be adhered to. What is really the practice under the Orders in Council? They are said to be solely intended to injure the enemy, by depriving her of those supplies which she had been accustomed to receive from neutral commerce. And yet, sir, at the very moment that Great Britain is making these assertions and inducing us to believe that her hostility is wholly employed against her enemy, at the very moment that she refuses to permit any neutral flag to enter the ports of her enemy, under the pretext that it might cover articles necessary to her subsistence—at that very moment she permits her own vessels to go there, and supply that enemy with those articles which would otherwise be supplied by neutrals. She is herself supplying her enemy with the very articles with which she refuses to permit neutrals to supply her, under the plea that her sole object is to deprive her enemy of those articles. I believe, sir, that if the Orders in Council are indeed a part of a great system of national policy, it is, to permit no other vessels than her own to enjoy any rights on the ocean; that she has seen with the eye of jealousy our increasing ability to rival her in commerce, and has invented the pretext of injuring her enemy to destroy us. This is what I understand by her "great system of national policy."

I understood the gentleman from Massachusetts, (Mr. WHEATON,) that Mr. Jackson had shown a disposition to conciliate, and that it was extremely unfortunate that the Administration had thought proper to dismiss the Minister when there was an opening for producing an amicable arrangement. Where, sir, is the evidence of any such disposition on the part of Mr. Jackson, or of Great Britain? Is it to be found in the disavowal of the arrangement? I should suppose not. We have seen that it was not in the appointment of Mr. Jackson. Is it to be found in the correspondence of Mr. Jackson himself? Did he not declare explicitly that his principal business here was to say that he had no proposals whatever to make? Was it to be presumed, after such a disavowal as had taken place, that the United States were indeed to make a proposition to the British Minister? That they were to make the

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809:

first advances to conciliation? I should really have supposed the first advances to conciliation ought to be made by the party committing the offence. I should suppose indeed that no complete restoration of amity could take place without a settlement of the affair of the Chesapeake as a preparatory step. This did not take place, nor was there any probability of it. True it is that Mr. Jackson did come forward and make propositions as to the reparation of the outrage; but were these propositions such as could be acceptable to the Government and country? To my mind, instead of wearing the aspect of conciliation, it was an additional insult offered to the Government. What were the propositions? That His Majesty would restore the seamen taken from the Chesapeake and provide for the families of the slain, provided that exceptions should be made from the restoration and remuneration of such of them as were natives of Great Britain or deserters from her service. It was well known that the men of whom the British were in search when they committed the outrage on the Chesapeake were deserters from the British navy; but it is as well known that they were American citizens. But, sir, was it to be expected, that the American Government, for the flimsy offer of a restoration of three or four men and the support of the families of as many more, were to recognise the principle that the British Government had a right to claim every man born in the country, or every man who had ever been impressed and had deserted from them, even if they were native Americans? If our Administration had been ready to do this they must have been lost to every sense of national character or dignity.

Another evidence, deduced from the correspondence of Mr. Jackson, that he was not the minister of peace, and that there was no probability of effecting a reconciliation through his agency, was the direct avowal that indeed the Orders in Council never would be withdrawn, unless substituted in some other manner. The Orders in Council of January and November, 1807, have been uniformly viewed in this country as one of the greatest outrages on our neutral and national rights. This House has almost unanimously resolved that it would never submit to the British Orders in Council; and yet this minister of peace, this man of conciliation, comes forward and tells us that the Orders in Council never will be withdrawn. Sir, at the time that Mr. Canning disavowed the arrangement it would seem that the celebrated three conditions contained the *sine qua non* of the British Government; that, without a previous acceptance of our agreement to them, there could be no probability of friendly relations being renewed between the two countries. This appears too at the time when he was expressing sentiments of friendship and an anxious desire to accommodate all differences between the two countries. Yet, notwithstanding the positive declaration of Mr. Canning that those three propositions must be acceded to on the part of the American Government, previous to any stipulations on his part, he acknowledges to Mr. Pinkney in conver-

sation that he did not see that the surrender of trade with enemies' colonies (one of those indispensable conditions) had any connexion with the Orders in Council, and that it would be made more properly the subject of an article in a treaty.

"Upon the third condition (says Mr. Pinkney) 'I said a very few words. I restated what I had thrown out upon the matter of it in an informal conversation in January, and expressed my regret that it should have been misapprehended.' Mr. Canning immediately said that he was himself of opinion that the idea upon which that condition turns could not well find its way into a stipulation; that he had nevertheless deemed it proper to propose the condition to the United States; that he should have been satisfied with the rejection of it; and that the consequence would have been that they should have intercepted the commerce to which it referred, if any such commerce should be attempted." Thus, sir, after disavowing an arrangement, because not including in it three conditions, Mr. Canning, in conversation with Mr. Pinkney, confesses that two of them were not properly connected with the subject, and would more properly have found their way into a treaty. This change of disposition, after declaring that the conditions were imperative, and disavowing a solemn agreement because it did not include them, is really extraordinary. What are we to understand by it? We know very well from past experience that Mr. Canning has displayed great facility in stating things in conversation and stating them wholly differently in writing, and in understanding conversations differently from what they were meant, and acting upon his own comprehension of them. It appears to me that the disavowing the arrangement, and immediately after, in conversation with Mr. Pinkney, acknowledging that the three conditions could not be acceded to on our part, is evidence that the cause of the disavowal was other than that advanced. It was a convenient ground to allege that the instructions were not complied with, but there was some secret, hidden ground, arising from an indisposition to come to an accommodation with us. In every point of view, seeking where I will, I have been unable to find that evidence which is to convince my mind that the British Ministry or Mr. Jackson were disposed to conciliate. Let gentlemen produce evidence if they have any, and let it be sifted and put to the test.

There is one view of this subject which I think ought to have great weight with gentlemen in inducing them to vote for the resolution. Let them consider the effect, which a negative of it would have on our foreign relations and on our domestic concerns. Such a vote would degrade the Administration in the eyes of foreign nations and of our own citizens. It would say in effect to the former, you have either wilfully or ignorantly erred, you must retrace your steps, you must make a humble apology to the British Minister for the treatment you have given him, soliciting him to resume his station and his insolence. You must recall your letter of instruction to Mr.

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

Pinkney, which directed him to solicit the recall of Mr. Jackson, and direct him to make a humble apology to the British Government for the insult offered to it in the person of its Minister, with a promise to behave better in future. Under such circumstances, sir, where would be our national dignity or national character? Where indeed would be our independence? They would all be fled with the vision of the morning. Could our Administration proceed one step further in negotiating upon the subject of our foreign relations? Certainly not, unless indeed they were ready to submit to every insult which foreign insolence might heap upon them, and to acquiesce in every proposition from foreign nations, however derogatory to our national honor and independence. I am well aware, sir, that many gentlemen upon whom these considerations would otherwise have great weight, satisfy themselves with the reflection that the resolution will be agreed to and these effects averted. But, sir, every gentleman ought to consider that his vote against the resolution is of course a negative of it for himself, and that he does, as far as in him lies, produce the result so much to be deprecated.

I have thus, sir, offered reasons to the Committee for the vote I shall give. I am sensible I have trespassed on their time: but I have thought it necessary that on a question of this magnitude the public at large as well as the committee should understand the real grounds on which members act, and therefore I have presented the ground on which I shall support my vote for the resolution.

The question on the Committee's rising and reporting their agreement to the resolution, was now taken and carried—54 to 35, fifty-two members being absent.

Mr. LIVERMORE said he did not rise now to attempt to go into an examination of the merits or demerits of the question; but to make a motion which, if carried, would put an end to the discussion. He said he made this motion under the idea that the question ought never to have been brought before the House; and that the passage of it would be an unconstitutional act, and might be destructive to civil liberty. The Constitution, (said he) which I think we shall all agree ought to continue as long as time exists, has pointed out the different powers of the different Departments of the Government; by it the powers of the Executive and of the Legislature are each defined. It never was intended that they should run into each other, or that the Legislature should exercise the Executive powers.

We are now called upon to express an opinion on an Executive act of the Government, upon an act of the President of the United States in relation to a foreign nation, the superintendence of our relations with whom are by the Constitution confined solely to himself. I conceive that if the President has done right, the approbation of his own conscience will be a sufficient reward. If he has done wrong, sir, nothing which we can say or do will alter the case. Whether he is competent to execute the duties of his office or not, is a question not for this House to consider. The

people have chosen him, and to them is he amenable. It is true, sir, that the House might be called on in a Constitutional way to examine the transaction from beginning to end, and express their opinion on it; and therefore more particularly ought they not to meddle with it in the way proposed. It is possible that the President, for his conduct in this transaction, may be impeached before the Senate. Suppose that body should be called upon to try such a question—what have they done in this case? Why, they have committed themselves on the question.] The SPEAKER observed that it was not within the rules of order to refer to the acts of the Senate.] Mr. L. continued. I conceive, sir, that it is impossible to get along in this debate if we cannot refer to transactions in the Senate; because it is a transaction of the other House on which we are called upon to deliberate. I was going on to consider the great impropriety and unconstitutionality of this method of deliberation. We are called upon to express our approbation of the doings of the Executive, which very subject may be drawn in question before us. It is possible, and results from the very nature of the case, that we may be called upon to express our opinion on the propriety of impeaching him before the Senate. I was going on to consider this case as one which may be important to this country, which may stand on record as a precedent as long as records exist.

This question may be considered in different points of view. Let us suppose that this was a resolution of censure. Would not the Executive have a right to say, when a vote of censure is passed in this way, that you prejudge the case? With what propriety could you, after passing such a resolution, discuss a question of impeaching him before the Senate. This shows the glaring impropriety of the proceeding in the one case as well as in the other. Justice should be impartially administered. Can it be said that there is any impartiality about a man who prejudices the case on which he is to decide? I ask gentlemen to consider the question in this light, and I think it is infinitely the most important view which has been taken of it. It is wholly improper for the House to interfere in it, as was correctly observed by a gentleman from North Carolina (Mr. MACON,) though in my apprehension there is no danger of the Government being destroyed by collisions between the two branches or either branch of the Legislature and the Executive. It is true that such a course might impede the public business; but the people hold the corrective, and would judge and place the matter right at last.

But it is a consideration worthy of notice—and I do not know how gentlemen will receive my observations, but—as a representative of the people, I must express my opinion, that whenever the Executive can by his popularity or the great patronage he holds become so powerful as with a secret hand to seize upon the minds of a majority of the Legislature, the Constitution is in jeopardy; for acts will be carried through both Houses for which there will be no responsibility. I fear not that any individual will lay hold of power

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

and wrest our liberties by force. No, sir,—and in my opinion the little finger nail of Henry the VIII contained more despotism than the whole house of the Stuarts, from their origin to the extinction of the race. For the unfortunate Charles, who boldly attempted to seize upon the liberties of his subjects, met destruction in the attempt, while Henry employed his servile Parliament to effect the most cruel tyranny and oppression with certainty of success. I would guard against gradual approaches to despotism—and I ask whether this very case may not hereafter be produced as a precedent for such proceedings? If it should so happen that there be an Executive who wishes to carry through any arbitrary measure, he may get some confidential friend to move a vote of approbation, and get it passed possibly without discussion. Will not this be the plain operation of the precedent? I appeal to gentlemen's candor for an answer. Let them consider, taking all for granted which has been said of the injuries done us in this case, it is but dust in the balance to the injuries which may result to the Constitution from such a precedent as this. It is against the spirit of the Constitution, and therefore as unconstitutional as if it were against the letter of it. I know not, sir, how I may be apprehended; for what is said here as the result of mature consideration is often misapprehended as the result of party spirit. There is, I acknowledge from daily experience, too much of this displayed in the House. But, if I can judge for myself, and am capable of considering any question on its merits, I conceive that this is a most unconstitutional thing in its origin, and brought forward in an unconstitutional manner here.

Gentlemen, no doubt, will say, what was your opinion at the last session, when you were desirous of approbating the conduct of the President? That question did not come to a decision. It is true, I consider the subject in a different light now from what I did then, and the cases are essentially dissimilar. And if they were alike, should I, because once wrong, persist in error? That resolution was not a joint resolution, an act of the Government, but an expression of the opinion of this House, and was introduced not by any gentleman considered as in the confidence of the Administration, but from a different quarter.

This question must be considered on its own merits. Conceiving it not to be a Constitutional, proper, regular mode of proceeding, to shorten its discussion, if possible, by dismissing it from the House, I move its indefinite postponement.

Mr. RHEA called for the yeas and nays on the motion.

Mr. EPPES said, that as the motion to postpone indefinitely the resolution before the House involved the merits of the question, he would avail himself of the opportunity to present to the House and to the public his view of a transaction which so deeply affected the honor, the interest, and independence of the nation. If, said he, there is any question on which the two great parties of our country ought to unite on ground truly American, it is the one which we are now called upon

to decide. In maintaining the respect due to the Executive branch of our own Government, in discountenancing rudeness or insolence on the part of a foreign agent, men of all political parties have a common interest. Whatever difference of opinion may exist either as to general or local policy, we surely cannot, on a question involving the support of a foreign agent against the Executive Government of our own country, arrange ourselves under the banners of party. Hitherto, in all questions between the Administration of this country and that of Great Britain, gentlemen have told us, you need not expect justice until you repeal laws considered in Great Britain as manifesting hostility on the part of the United States. The partial non-importation act was said to be a measure of hostility; this is done away. The proclamation, issued after the most flagrant violation of our territory and rights, was considered a hostile measure; this is done away. The embargo was considered as a hostile measure; this is done away also. Great Britain and France must be placed on an equal footing; this has also been done. The former Administration, against which gentlemen had been habituated to indulge feelings of distrust and suspicion, has gone out. The first act of the new Administration, but for the bad faith of the British Ministry, would have consigned to oblivion every measure which the opponents of the former Administration have heretofore considered a bar to the adjustment of our differences with Great Britain. Will gentlemen now tell us why Great Britain will not do us justice? Will they tell the people the grounds on which the disavowal of the late arrangement with Mr. Erskine is made, and justify the British Ministry? They dare not. Will they sacrifice on the altar of public good, party feelings, and present to foreign nations that united front which alone gives force to a free Government? The vigor of a free Government depends on union. To the patriotic and voluntary exertions of our citizens, we must look for that energy which a tyrant forces from reluctant slaves. What prospect of redress for our injuries can we have, if on an occasion like the present, marked by such strong features of injustice on the part of the British Government, and of atrocious insolence on the part of its Minister, the Representatives of the people shall present to the world the extraordinary spectacle of discord, division, and disunion? It seems, sir, that the fair castle of union and confidence, which men of all parties united in rearing at the last session, has vanished. It seems that the present Administration is not to be judged by its own acts, but is destined to receive as a sort of inheritance all those bitter and acrimonious feelings which years of party conflict had ripened into inveterate hostility against the former. Gentlemen have just discovered that the promptitude and frankness with which the Executive of the United States met the overtures of Mr. Erskine, is all an error. A gentleman from Connecticut, (Mr. DANA,) who at the last session of Congress told us that on this occasion the President of the United States had acted like a man of business;

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

that no diplomatic difficulties had been thrown in the way; that the tender was met fairly, openly and honorably, has employed himself during the recess, in reading Grotius, Puffendorf, Vattel, Wicquefort, Martens, and other writers on national law, and now tells us gravely this thing is all an error. In May last I thought with the gentleman from Connecticut. I see nothing in the correspondence laid before us which can justify a change of opinion. I cannot, like the Satyr in the fable, blow hot, blow cold, with the same breath. I cannot now call black, what I at that time thought white. I cannot consent to attach myself to the pendulum of Mr. Canning, whether its vibrations tend to promote the interest or ruin of my country. Sir, do gentlemen forget that the conduct of the Executive on this occasion was approved by men of all parties in this country? Do they forget that it was eulogized and approved by themselves? Do they expect to explain to the people this sudden vibration by references to Puffendorf and Grotius? Will they tell the people the real grounds on which the disavowal of the late arrangement with Mr. Erskine is made, and array themselves in opposition to the Administration for having entered into it? They dare not. Will they say to the people, that, as to the affair of the Chesapeake, the British Government will not us make reparation, because the repeal of the President's proclamation is not recorded in the instrument? The people will tell them the proclamation is repealed. Will the gentleman then tell the people, that although Captain Bradley violated your territory; that although Pierce was murdered within sight of the harbor of New York; although the attack on the Chesapeake took place before the proclamation issued, still it is made an affair of honor by the British Government? Is it not enough that it is repealed, you must acknowledge you were wrong in having issued it? Will gentlemen, in addition to this, tell the people, that before reparation for the Chesapeake is made, we must disfranchise our naturalized citizens, and acknowledge the right of His Britannic Majesty to claim them? Will they tell the people that before the Orders in Council are withdrawn we must give security for the continuance of our non-intercourse system against France? The people will reply, that, by the arrangement with Mr. Erskine, that has been already done. Will the gentlemen then say to the people, in the language of Mr. Canning: this law may be repealed; Great Britain must have two other conditions complied with; you must relinquish all right to trade with enemies' colonies: but this is not sufficient; your own Government is too imbecile to execute your laws against France; the British fleet must be allowed to aid you, so as to secure the good faith of the United States. Will any gentleman deny that these are the reasons assigned by the British Ministry for disavowing the late arrangement? Mr. Canning says, Mr. Erskine was authorized to make the arrangement on these conditions only, and these have not been obtained. I call upon gentlemen to deny the statement I have made.

They cannot. To our disgrace it is on record, and the record before us.

The course pursued by the gentleman from Connecticut, (Mr. DANA,) in discussing the resolution before the House, renders it necessary to bring into view the whole of the late arrangement and disavowal. The gentleman has told us—

1. That the whole correspondence is founded on an error on the part of our own Executive, viz: that Mr. Erskine could make stipulations binding on his Government in virtue of his general letter of credence.

2. That in all cases where stipulations are to be made by a Minister binding on his Government, there must be a full power, or, as the gentleman terms it, a patent power.

3. That it was the duty of the Executive of the United States to have demanded of Mr. Erskine, as a preliminary to negotiation, the production of the authority under which he acted, whether it was contained in a full power or instructions.

The gentleman from Connecticut, (Mr. DANA,) who on this occasion has certainly displayed both learning and industry, seems to have viewed the arrangement entered into with Mr. Erskine as a formal treaty, and has applied to it principles not at all applicable to what it really was, viz: a preliminary arrangement to be succeeded by a treaty. All the authorities cited by the gentleman are applicable only to treaties embracing regulations of a permanent character. The gentleman has correctly cited various cases under the authority of the United States. 1. President Jefferson to Messrs. Monroe and Pinkney, letters of credence and full power—President Adams's Envoys to France, letters of credence and full power; and lastly, the case of Mr. Hammond, under General Washington's Administration, who had presented letters of credence, and was nevertheless called upon to produce a separate power.

In all these cases the Ministers were to form a treaty. The last case, between Mr. Hammond and Mr. Jefferson, embraced not only a treaty of commerce, but the adjustment of difficulties produced by a failure on both sides to execute certain articles of a treaty concluded under the old Confederation. It never has been doubted, but that a separate power independent of the letter of credence is necessary for the formation of a treaty embracing regulations of a permanent character. The full power, or patent power, on which the gentleman from Connecticut has said so much, was originally designed to bind Princes to ratify the acts of their agents. It was much in use in the sixteenth, seventeenth, and part of the eighteenth centuries, when Princes were prone to perfidy, and being considered, according to Wicquefort, as a power of attorney, absolutely bound the Sovereign. Indeed, the same author relates instances where treaties were published before ratification, and says, that the ratification is not of the essence of a treaty. It is not however doubted but that, according to the present usage of nations, whether a treaty is concluded in virtue of a full power or not, Sovereigns claim the right, to use the language of Vattel—"not to lay any stress

upon their treaties until they have signed upon and ratified them"—*vide* Vattel, b. 2, c. 12, sec. 156. By the same writer the distinction is laid down, between a treaty embracing permanent regulations and what are termed conventions on public affairs—*vide* book 2, chap. 12, sect. 207. The reference which the gentleman has made to the Message of President Madison, in support of his doctrine of full power, is rather an unfortunate one. Here Mr. E. read the following extract:

"In consequence of the provisions of the act interdicting commercial intercourse with Great Britain and France, our Ministers at London and Paris were, without delay, instructed to let it be understood by the French and British Governments, that the authority vested in the Executive to renew commercial intercourse with their respective nations, would be exercised in the case specified by that act.

"Soon after these instructions were dispatched, it was found that the British Government, anticipating, from early proceedings of Congress, at their last session, the state of our laws, which has had the effect of placing the two belligerent Powers on a footing of equal restrictions, and relying on the conciliatory disposition of the United States, had transmitted to their Legation here, provisional instructions, not only to offer satisfaction for the attack on the frigate *Chesapeake*, and to make known the determination of His Britannic Majesty, to send an Envoy Extraordinary with powers to conclude a treaty on all the points between the two countries; but, moreover, to signify his willingness, in the meantime, to withdraw his Orders in Council, in the persuasion that the intercourse with Great Britain would be renewed on the part of the United States."

Here, then, the form in which this arrangement was made is stated officially to the gentleman from Connecticut. The arrangement has none of the characteristic features of a treaty. It has never until the present time been considered as a treaty. It was stated by the President as it really was, as a mere preliminary arrangement contemplating only a temporary withdrawal of certain measures until the general relations of the two countries could be fixed by a formal treaty. On this part of the subject, to wit—"that the arrangement with Mr. Erskine cannot be considered as a formal treaty"—the observations of the gentleman from North Carolina, (Mr. MAÇON,) are infinitely superior to anything which I can say, because they are conclusive.

Having made these preliminary remarks, I will now proceed to examine—

1. How far the Executive of the United States was authorized to receive the declaration of the accredited Minister of Great Britain as to the extent of his powers, or was bound to require an exhibition of his instructions as a preliminary to the arrangement.

2. How far the arrangement entered into was obligatory on the British Government.

3. Whether there has been such a departure from instructions as to warrant a disavowal of the arrangement, without a breach of good faith on the part of the British Ministry.

In examining the first point, the first question which presents itself is, under what authority did Mr. Erskine act?

1. Under a general letter of credence.
2. Under instructions.

What is a general letter of credence? It is a paper addressed by the Executive Magistrate of one country to the Executive Magistrate of another country. It contains the name and quality of the Minister who bears it, and it is always presented in person—after mentioning the name and quality of the Minister, it proceeds to state: "We therefore, desire that you will give a favorable reception to our said Minister Plenipotentiary, and that you will give entire credence to whatever he may represent to you in our name."

A letter of credence being under the signature of the head of the Government and seal of the nation, and of course patent to the Government receiving it, is equivalent to a commission in any other form whatever.

The only difference between a full power (unless limited to a special object) and a general letter of credence, consists in this—

The full power gives a right to make stipulations on all subjects.

The letter of credence on such subjects as come properly within the range of the general powers of the Minister resident.

The full power is signed by the Head of the Government, and, being under the seal of the nation, is of course patent.

The letter of credence is also under the signature of the Head of the Government and seal of the nation, and of course patent.

A Minister acting under a full power and instructions presents to the Government only the full power.

A Minister acting under a letter of credence and instructions presents only his letter of credence to the Government.

The instructions in both cases belong exclusively to the Minister, and cannot be demanded. They contain, to use the language of Vattel, the master's secret. The only question therefore seems to be, whether the subjects arranged by Mr. Erskine, viz. the *Chesapeake* and Orders in Council come fairly within the range of the powers of a Resident Plenipotentiary.

The powers of a Resident Minister Plenipotentiary are no where precisely defined—and consequently there is no precise demarkation between the cases falling within his powers and those requiring a special Plenipotentiary commission. Usage, reason, and common sense, must trace the distinction. In general, occurrences of a transitory character are settled by the resident functionary. Transactions and arrangements operating like treaties of peace, commerce, alliance, &c., either on account of their permanent character or peculiar magnitude, are the work of Plenipotentiaries specially commissioned.

Mr. Rose, for the adjustment of the affair of the *Chesapeake*, brought only a letter of credence under the hand and seal of his Sovereign. The despatch of Mr. Canning to Mr. Erskine of the 23d of January is not a full power in the legal sense of the terms, being neither signed or sealed like a full power, or addressed to the proper au-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

thority. Had Mr. Erskine therefore shown the instructions, the authority of them would have rested not on their intrinsic character, but on the letter of credence which required faith to be put in his word. It is admitted that Mr. Erskine had authority to adjust the affair of the Chesapeake, and objected only that he violated his instructions. Yet it is certain he had no extra commission—nor is it pretended that in that case he had any instructions, even, which he was authorized to communicate. His authority, therefore, was in his letter of credence. The proposals of our Minister, Mr. Pinkney, in London, on the subject of the embargo and Orders in Council, although they contemplated a repeal of both, were not objected to for want of power, yet he had no commission except his letter of credence. The instructions of Mr. Erskine contemplated a repeal of the prohibitory acts on both sides, although it is not pretended that he had any other commission but his general letter of credence. English history furnishes a precedent in point, which shows that a full power is not necessary to arrangements preliminary to a treaty. The case in question is the declaration and counter-declaration exchanged at Madrid, the 24th of July, 1790, between the Spanish Minister, Count Florida Blanca, and the British Ambassador, Alleyne Fitzherbert. In that case there was no full power, the phrase used is, "being thereto duly authorized." This declaration and counter-declaration were signed in virtue of a general letter of credence, by Mr. Fitzherbert, who was Minister Plenipotentiary from Great Britain to the Catholic King; but when, in consequence of this preliminary arrangement, a treaty was entered into on the 28th of October of the same year, the phrase is altered, as, after reciting Count Florida Blanca's and Mr. Fitzherbert's appointments to conclude the treaty, it says, "who after having communicated to each other their respective full powers."—*Vide* An. Reg. 1790, p. 300. On this and the other point, the calling for the exhibition of instructions as a preliminary to negotiation, I beg leave to read the following authorities:

"The Ambassador, after he has presented his letters of credence, (says Wicquefort, folio ed., p. 109,) and had them approved, ought to enjoy the effect thereof purely and simply, and has no further occasion to fortify or authorize his negotiation by producing other instruments."

"Instructions (says Wicquefort) are a secret instrument which the Ambassador is not obliged to communicate to the Court where he negotiates. Nay, I dare affirm that he ought not to produce it, without a necessity and express order. In the year 1560, Queen Elizabeth sent into Scotland Robert Bowes, with orders to make pressing instances to have the Duke of Lenox removed from the King's person, who was at that time very young. Those of the Council of Scotland said, that it was so severe and unjust a thing, that not being able to believe the Queen had given him any such orders they desired to see them. Bowes said he would not show them. The Scotch were dissatisfied therewith. But the Queen was so displeased with their procedure, that she recalled her Ambassador, and re-

fused to give audience to him they sent to justify their transaction."

"In the year 1643, (says the same author,) Walter Strickland, Minister from the Parliament of London, presented a memorial to the States General, wherein he spoke of the Prince of Orange with little respect. He was urged to show his orders, but it was a kind of violence that could not well be justified. They that did it, either did not reflect on what they did, or else they were very willing to offend his master. We have seen within some years a Minister, who, having been sent by a powerful State to one of the first Princes of Germany, begun his negotiation by laying his instructions on the table. But all that can be said of it is, that it was the action of a fool, in the utmost extent of the signification of the epithet. It is an unheard-of thing that a Minister has been compelled to show his orders, and they who force him to do it offer violence to the law of nations."

"The Minister who is to carry on a negotiation (says Martens, book 7, chap. 3, sec. 5) is furnished with instructions. These instructions, as well as those that it may be necessary to dispatch to him in the course of his embassy, being intended for himself alone, are not usually produced to the Court where he is sent, unless his own Court orders him to do it, or unless he, from urgent motives, thinks himself justifiable in producing certain passages of them. Sometimes he has two sets of instructions, the one public, and the other secret."

"Instructions (says M. de Callieres in his '*Maniere de Negocier*,' page 87, c. 12,) are a writing which contain the commands of the Prince or of the State that gives them to its negotiator, to which he may have recourse for the purpose of refreshing his memory, and by which he is to regulate his conduct. There are sometimes two sets of instructions, one made to be shown, the other secret—which contains the true and ultimate intention of the Prince or State that gives them."

The same author, page 88, declares:

"The instructions of a public Minister cannot be demanded without a violation of the law of nations. He ought never to communicate them without the express commands of his Sovereign—nothing is necessary to give full faith to his declaration, but the letter of credence which he has presented, or the full power which he may have communicated."

From these authorities it appears that the Executive had no right to demand of Mr. Erskine his instructions. Mr. Erskine did not exhibit them—on the contrary, he declares, that he considered it would be in vain to lay before the Government of the United States the despatch of the 23d of January, which he was at liberty to have done in extenso if he had thought proper.—*Vide* Correspondence, page 20.

I will now proceed to examine how far the arrangement entered into was obligatory on the British Government. In order to form a correct opinion on this subject it will be necessary to pass in review the circumstances which took place prior to the late arrangement. The measures adopted at the commencement of the second session of the eleventh Congress placed Great Britain and France on an equal footing—every pretext for a continuance of the decrees and orders was removed, and the provision contained in the eleventh section of the non-intercourse act was

introduced for the express purpose of enabling the President to meet the advances of either Great Britain or France, for the restoration of intercourse. After a due lapse of time the arrival of a national ship is announced, bringing not an ordinary messenger but a Secretary of Legation charged with important despatches. Mr. Erskine, the British Minister, immediately addresses to the Secretary of State a note tendering reparation for the affair of the Chesapeake and expressing the sincere disposition of His Majesty for an adjustment of all the differences between the two countries.

I will read an extract from the first note—

“It having been represented to His Majesty’s Government, that the Congress of the United States, in their proceedings at the opening of the first session, had evinced an intention of passing certain laws, which would place the relations of Great Britain with the United States upon an equal footing, in all respects, with the other belligerent Powers; I have accordingly received His Majesty’s commands, in the event of such laws taking place, to offer, on the part of His Majesty, an honorable reparation for the aggression committed by a British naval officer, in the attack on the United States’ frigate *Chesapeake*.”

The reparation for the outrage on the *Chesapeake* is accepted, and the British Minister immediately addresses to the Secretary of State a second note, from which the following is an extract:

“The favorable change in the relations of His Majesty with the United States, which has been produced by the act (usually termed the non-intercourse act) passed in the last session of Congress, was also anticipated by His Majesty, and has encouraged a further hope, that a reconsideration of the existing differences might lead to their satisfactory adjustment.

“On these grounds and expectations, I am instructed to communicate to the American Government, His Majesty’s determination of sending to the United States an Envoy Extraordinary, invested with full powers to conclude a treaty on all the points of the relations between the two countries.

“In the meantime, with a view to contribute to the attainment of so desirable an object, His Majesty would be willing to withdraw his Orders in Council of January and November, 1807, so far as respects the United States, in the persuasion that the President would issue a proclamation for the renewal of the intercourse with Great Britain, and that whatever difference of opinion should arise in the interpretation of the terms of such an agreement, will be removed in the proposed negotiation.”

This also is met with that unsuspecting confidence which the circumstances under which it was tendered was calculated to produce—the proposal of the British Minister is accepted, and he immediately addresses to the Secretary of State the following note:

“In consequence of the acceptance, by the President, as stated in your letter dated the 18th instant, of the proposals made by me on the part of His Majesty, in my letter of the same day, for the renewal of the intercourse between the respective countries, I am authorized to declare that His Majesty’s Orders in Council of January and November, 1807, will have been withdrawn as respects the United States, on the 10th day of June next.”

This pledge, sir, thus solemnly made in the face of the whole world, is accepted by the Executive; he could not have declined it without supposing the British Minister an unprincipled swindler. On what principle could the Executive of the United States have declined a tender thus made? The accredited Minister Plenipotentiary of Great Britain declares, “I am authorized to declare that His Majesty’s Orders in Council will have been withdrawn on the 10th day of June next.” Could the President of the United States have doubted the veracity or honor of the Minister? These had never been questioned. Could he suppose that Mr. Erskine would artfully sacrifice himself to such a project, against the views of his Government? for this there could be no possible temptation. Could the Executive suppose that Mr. Erskine had mistaken the views of his Government? Such a supposition could not be entertained, because his despatches were brought by a diplomatic auxiliary, immediately from his Government, not doubted to be possessed of all its views, and well understood to be privy to all the steps taken by Mr. Erskine. Were the terms offered at such a crisis of a nature to render the offer suspicious? So far from it that the language of those who now reprobate the want of caution was, that they were always attainable. If under such circumstances the opportunity had been met by the scruples and subtleties now advanced, let candor decide whether the authors could not and would not have appeared in much greater force against the Administration. Let gentlemen say, whether men of all parties would not have united in execrating the conduct of the Executive, if instead of meeting the overtures of Mr. Erskine, to use their own language, with “promptitude and frankness,” he had told him to send back to Great Britain for a patent power as a prop for his veracity.

To make a contract binding, five things are necessary—

1. That the parties have power to consent.
2. That they have consented.
3. That they have consented freely.
4. That the consent is mutual.
5. That the execution is possible.

Vide Marten, b. 2, ch. 1 sec. 3.

The arrangement is not disavowed for want of power on the part of Mr. Erskine, but for a departure from instructions. It is admitted by Mr. Jackson that Mr. Erskine had power. In page 69 of the correspondence, Mr. Jackson declares—“I must beg your very particular attention to the circumstance that His Majesty’s ratification has been withheld, not because the agreement was concluded without a full power, but because it was altogether irreconcilable to the instructions on which it was professedly founded. The question of the full power was introduced by yourself, to give weight, by a quotation from a highly respected author, to your complaint of the disavowal; in answer to which I observed, that the quotation did not apply, as Mr. Erskine had no full power. Never did I imagine, or anywhere attempt, to rest the right of a disavowal upon

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

that circumstance." According to Mr. Jackson, then,

1. Mr. Erskine had power to consent.
2. He did consent.
3. He consented freely, for the proposition came from him.
4. The consent was mutual, for it is in a written form and signed by both.
5. The execution was not only possible, but just and easy.

The five essentials of a contract were complied with; the contract, so far as it respected the United States, executed with good faith; no future ratification was or could be reserved; the affair of the Chesapeake was to be concluded here; the stipulations as to the Orders in Council were to be carried into immediate effect. To use the language of Mr. Canning, the Orders in Council and the embargo were to be contemporaneously withdrawn, and Mr. Erskine was authorized to fix the time—no notice of a departure from instructions was given at the time of making the arrangement.

To disavow with honor the act of its accredited agent, it is incumbent on a Government not only to show a palpable and manifest departure from instructions on material and important points, but also to produce such strong and solid reasons, as manifestly outweigh not only the general obligation, to abide by what has been done, but also the disappointment and injury accruing to the other party. This principle applies to cases where mutual ratification is reserved. The case before us is of a higher character—the refusal of the British Ministry is not simply to ratify what had been ratified by the other party, but to carry into effect on their part an arrangement which had been carried into full effect with good faith on the part of the United States.

I will now proceed to examine,

3. Whether there has been such a departure from instructions as to warrant a disavowal of the arrangement without a breach of good faith on the part of the British Ministry?

The arrangement entered into with Mr. Erskine consisted of three parts—

1. Reparation for the affair of the Chesapeake.
2. A withdrawal of the Orders in Council.
3. A promise to send over a Minister with full powers to conclude a treaty on all the subjects of difference between the United States and Great Britain.

Let us pass in review the several parts of the arrangement, and see how far on each there has been such a departure from instructions, as to warrant the course pursued by the British Ministry.

1. The reparation for the outrage on the Chesapeake—

The instructions of Mr. Erskine on this subject are not known to us; Mr. Jackson has not pointed to any despatch in which they were contained. There is strong ground indeed for believing that as to the Chesapeake, there has been no departure from instructions; the instructions on this subject, and indeed on the Orders in Council, are said to have been founded on a representation made by Mr. Erskine to the British Minister, Mr.

Canning. There is a perfect agreement between what Mr. Canning stated to Mr. Pinkney as the reparation which Mr. Erskine said would be acceptable to the American Government, and the reparation actually tendered. In page 7, of the last Message containing extracts from Mr. Pinkney's letters, Mr. Pinkney says:

"In the interview which took place (on May 25) Mr. Canning said, that the British Minister had acted in his late negotiation and engagements with you, not only without authority, but in direct opposition to the most precise instructions; that the instructions actually given to him had been founded on his own letters received here in January, in which were set forth the particulars of several conversations that had passed between him and Mr. Madison, Mr. Gallatin, and yourself, but especially the two last; that it appeared from these conversations that, in the opinion of the persons with whom they were held, the Government of the United States would be willing that Great Britain should consider the measures then contemplated by Congress, relative to non-intercourse, and the indiscriminate exclusion of belligerent vessels from our waters, as presenting an opening for the renewal of amicable discussions with this country; that it would be disposed, in the case of the Chesapeake, to receive as sufficient reparation, in addition to the prompt disavowal and recall of Admiral Berkeley, the restoration of the seamen forcibly taken out of that vessel."

In the next page of the same letter, Mr. Pinkney says, Mr. Canning proceeded to inform me, that, in consequence of these representations on the part of Mr. Erskine, two sets of instructions had been forwarded; the one relating to the Chesapeake, the other to the Orders in Council. What was the representation of Mr. Erskine as to the Chesapeake:

"That the American Government would be disposed to receive as sufficient reparation, in addition to the prompt disavowal and recall of Admiral Berkeley, the restoration of the seamen forcibly taken out of that vessel."

What was the reparation tendered by Mr. Erskine? Precisely what is here stated, with the addition only of a provision for the families of the unfortunate sufferers, if acceptable to the American Government. No mention is made of any condition in the representation of Mr. Erskine, on which the instruction was founded—nor is it probable that any conditions were contained in the instruction itself. But, sir, let us take the disavowal as stated by Mr. Jackson. In page 63 of the correspondence will be found the memorandum tendered to the Secretary of State in the following words:

"The President's proclamation of July, 1807, prohibiting to British ships of war the entrance into the harbors of the United States, having been annulled, His Majesty is willing to restore the seamen taken out of the Chesapeake, on reserving to himself a right to claim, in a regular way, by application to the American Government, the discharge of such of them, if any, as shall be proved to be either natural born subjects of His Majesty, or deserters from His Majesty's service.

"His Majesty is willing to make a provision for the families of such men as were slain on board the

Chesapeake, in consequence of the unauthorized attack upon that frigate, provided that such bounty shall not be extended to the family of any man who shall have been either a natural born subject of His Majesty, or a deserter from His Majesty's service."

And, in page 98, Mr. Jackson says, on the subject of the Chesapeake:

"When I informed you that the agreement concluded here in April last had been framed in deviation from the instructions given for the occasion, my explanation was intended to apply to both parts of that agreement. That nothing, required by the most scrupulous accuracy, may be wanting, I now add, that the deviation consisted in not recording, in the official document signed here, the abrogation of the President's proclamation of the 2d July, 1807, as well as the two reserves specified in the paper of memoranda enclosed in my official letter to you of the 27th ult."

It appears, then, that the tender of reparation for the Chesapeake is disavowed:

1. Because the repeal of the proclamation of the President was not recorded in the instrument by which the reparation was made.

2. Because it did not contain a stipulation admitting the right, on the part of Great Britain, to claim a discharge from our service of deserters generally, and particularly of her natural born subjects, without excepting such as had been naturalized in due form by the United States.

The first condition was entirely useless, because the proclamation was repealed.

The second condition has no connexion with the subject. Stipulations on the subject of deserters, or on any other subject, ought to have been reserved for arrangement by treaty. They could not honorably be tendered to the American Government as the price of reparation for an injury. The nation or individual tendering reparation for an injury cannot give better proof of treachery of the basest kind, than to clog it with disgraceful conditions, which insure its rejection. Who, sir, are the natural born subjects of Great Britain? All persons born within the dominions of Great Britain, whether naturalized by the laws of other countries or not. We are refused reparation for an atrocious injury, because we will not purchase it by a surrender of the rights of our naturalized citizens. The disavowal of the reparation for the Chesapeake manifests not only bad faith on the part of the British Ministry, but proves irresistibly to my mind, that if such a condition was contained in Mr. Erskine's instructions, it was not intended he should make us reparation. The veil attempted to be thrown over this transaction, viz: a departure from instructions, is too thin to conceal the base perfidy by which it is characterized.

I now, sir, proceed to examine the second part of the arrangement, viz: the Orders in Council.

The stipulation for a withdrawal of the Orders in Council has also been disavowed, on account of a departure from instructions. The departure consists in Mr. Erskine's not obtaining a recognition of three conditions contained in the despatch of the 23d of January, which, Mr. Jackson says, was the only despatch by which the conditions

were prescribed to Mr. Erskine for the conclusion of an arrangement with this country on the matter to which it relates. In page 69 of the correspondence, Mr. Jackson says: "In his despatch of the 23d of January, Mr. Secretary Canning distinctly says to Mr. Erskine: 'Upon receiving through you on the part of the American Government a distinct and official recognition of the three above-mentioned conditions, His Majesty will lose no time in sending to America a Minister fully empowered to consign them to a formal and regular treaty. This Minister would, of course, have been provided with a full power; but Mr. Erskine was to be guided by his instructions, and had the agreement concluded here, been conformable to them, it would, without doubt, have been ratified by His Majesty.'"

Let us, then, turn to the conditions contained in the despatch of the 23d of January, to which Mr. Jackson refers, vide page 13th, Correspondence. These conditions are:

1st. "That the American Government is prepared, in the event of His Majesty's consenting to withdraw the Orders in Council of January and November, 1807, to withdraw, contemporaneously on its part, the interdiction of its harbors to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain, leaving them in force with respect to France, and the Powers which adopt or act under her decrees.

2d. "That America is willing to renounce, during the present war, the pretension of carrying on in time of war all trade with the enemy's colonies, from which she was excluded during peace.

3d. "Great Britain, for the purpose of securing the operation of the embargo, and the *bona fide* intention of America to prevent her citizens from trading with France, and the Powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these Powers; without which security for the observance of the embargo, the raising it nominally, with respect to Great Britain alone, would, in fact, raise it with respect to all the world."

By the arrangement with Mr. Erskine, the first of these conditions was substantially obtained. The second, Mr. Canning admits, has no connexion with the subject; and the third, he says, could not with propriety constitute any part of a formal stipulation. In page 13th of the last Message of the President, containing extracts from Mr. Pinkney, Mr. Pinkney says:

"Upon the second of the conditions mentioned in Mr. Erskine's instructions, I made several remarks, I stated that it had no necessary connexion with the principal subject; that it had lost its importance to Great Britain by the reduction of almost all the colonies of her enemies; that Batavia was understood not to be affected by it; that it could not apply to Guadeloupe, (the only other unconquered colony,) since it was admitted that we were not excluded from a trade with Guadeloupe in peace; that I did not know what the Government of the United States would, upon sufficient inducements, consent to do upon this point, but that it could scarcely be expected to give the implied

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

sanction which this condition called upon it to give to the rule of the war of 1756, without any equivalent or reciprocal stipulation whatsoever. Mr. Canning admitted that the second condition had no necessary connexion with the Orders in Council, and he intimated that they would have been contented to leave the subject of it to future discussion and arrangement. He added, that this condition was inserted in Mr. Erskine's instructions, because it had appeared from his own report of conversations with official persons at Washington, that there would be no difficulty in agreeing to it.

"Upon the third condition I said a very few words. I restated what I had thrown out upon the matter of it in an informal conversation in January, and expressed my regret that it should have been misapprehended. Mr. Canning immediately said that he was himself of opinion that the idea upon which that condition turns could not well find its way into a stipulation; that he had, nevertheless, believed it proper to propose the condition to the United States; that he should have been satisfied with the rejection of it; and that the consequence would have been that they should have intercepted the commerce to which it referred, if any such commerce should be attempted."

From this, then, it appears that, by the arrangement with Mr. Erskine, a full equivalent for the first condition was obtained; and that the British Minister acknowledges that the second condition might have been left for future discussion and arrangement, and that he would have been contented with the rejection of the third. Even, therefore, supposing this despatch of the 23d of January to have been the only instruction Mr. Erskine had on this subject, it does not appear that there is any solid ground for disavowing this part of the arrangement. If, however, we are to credit the solemn declaration of Mr. Erskine, he had several letters of instruction. In page 20 and 21 of the correspondence, Mr. Erskine says:

"Under these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning's despatch of the 23d January, (which formed but one part of his instructions to me,) in the formal manner required, I considered that it would be in vain to lay before the Government of the United States the despatch in question, which I was at liberty to have done *in extenso* had I thought proper. But, as I had such strong grounds for believing that the object of His Majesty's Government could be attained, though in a different manner, and the spirit, at least, of my several letters of instructions be fully complied with, I felt a thorough conviction upon my mind, that I should be acting in conformity with His Majesty's wishes, and, accordingly, concluded the late provisional agreement on His Majesty's behalf with the Government of the United States."

I will now, sir, proceed to the third part of the arrangement, viz: the promise to send over a Minister with full powers to conclude a treaty on all the subjects of difference between the two countries. This also is disavowed. Instead of a Minister of peace, Mr. Canning officially notifies Mr. Pinkney, our Minister in London, of his intention of sending over a Minister for the purpose of giving our Secretary of State a *jirking*. In page 7th, of the correspondence, Mr. Canning in a letter to Mr. Pinkney, says:

"I forbear equally from troubling you, sir, with any comment on the manner in which Mr. Erskine's communications have been received by the American Government, or upon the terms and spirit of Mr. Smith's share of the correspondence.

"Such observations will be communicated more properly through the Minister whom His Majesty has directed to proceed to America; not on any special mission, (which Mr. Erskine was not authorized to promise, except upon conditions, not one of which he has obtained,) but as the successor of Mr. Erskine, whom His Majesty has not lost a moment in recalling."

Here, sir, the object of Mr. Jackson's mission is explained; he is sent, says Mr. Canning, not on any special mission, but as the successor of Mr. Erskine. The terms and spirit of Mr. Smith's share of the correspondence with Mr. Erskine are expressly noted, and an intimation given in form, that they will be the subject of animadversion. Mr. Jackson appears to have arrived in this country with dispositions precisely in unison with the intimation thus thrown out by Mr. Canning. His misrepresentation of the affair at Hampton, fixed on him now by the oath of respectable persons, manifests but too strongly the state of his feelings on his first arrival in this country. His first letter, before any correspondence had taken place calculated to excite unpleasant feelings, is proof positive that his feelings were not acquired here, but brought with him. I will read an extract—it will be found in pages 29 and 30 of the correspondence; and the style and manner excite the more surprise because it is the first official note addressed to the Secretary of State:

"Considering that a very few days have elapsed since I delivered to the President a credential letter from the King my master, and that nothing has been even alleged to have occurred to deprive me of the credit to which, according to immemorial usage, I am by that letter entitled, I believe there does not exist in the annals of diplomacy a precedent for such a determination between two Ministers who have met for the avowed purpose of terminating amicably the existing differences between their respective countries: but, after mature reflection, I am induced to acquiesce in it by the recollection of the time that must necessarily elapse before I can receive His Majesty's commands upon so unexpected an occurrence, and of the detriment that would ensue to the public service if my Ministerial functions were, in the interval, to be altogether suspended. I shall, therefore, content myself with entering my protest against a proceeding which I can consider in no other light than as a violation, in my person, of the most essential rights of a public Minister, when adopted, as in the present case, without any alleged misconduct on his part."

The style and manner of many parts of the same letter but too strongly mark the temper and views of Mr. Jackson. The formal tender of terms for the adjustment of the affair of the Chesapeake, which he knew could not honorably be accepted, and which he knew would be rejected, manifests a spirit of hostility too obvious to be denied. The renewal in an informal manner of the disgraceful proposals on the subject of the Orders in Council affords additional proof of the

hostile views with which he was sent. These informal propositions are stated in the first letter of Mr. Smith. Mr. Jackson, in answer to this letter, says, that the propositions were not made "with that view," viz: with a view to their being considered as formal propositions on the part of the British Ministry; finally, he denies that they were made at all. In a part of the correspondence, he declares "he has a power to discuss and eventually to conclude," and afterwards, that he has "a full power." Taking his own declarations and Mr. Canning's notification to Mr. Pinkney already cited, and he can only be considered as an ordinary Minister, a mere successor of Mr. Erskine, and charged with no special commission except a lashing for Mr. Smith.

With this view, sir, of the grounds on which the late arrangement has been disavowed, I cannot but feel that a course has been pursued by the British Ministry not warranted by good faith. Such a transaction in private life would be called swindling. It would stamp with dishonor the character of any individual who could fly from engagements fairly entered into and attempt to cover his bad faith by so flimsy a veil.

The reason assigned by the British Ministry for disavowing this arrangement cannot be the real ones. The real reasons have been ably stated by a gentleman from Pennsylvania, (Mr. MILLNOR,) and I rejoice on the present occasion to see his talents devoted to his country, and not employed in softening the injustice of a foreign nation or the atrocious insolence of its Minister. The object to be accomplished by Mr. Canning is too plain—plighted faith is violated that British smugglers may fatten, while the rights of neutrals are destroyed.

I will now, sir, proceed to offer a few remarks on the parts of the correspondence which bear more particularly on the resolution before the House. My object will be to present in succession the parts of the correspondence, in which I consider the British Minister, Mr. Jackson, has attributed to the Executive Government of the United States, to use the language of the gentleman from Connecticut, (Mr. DANA,) the intentional falsification of a fact. I do not wish to put between the parts of the correspondence a single remark:

Mr. Jackson to Mr. Smith—pp. 31, 32.

"You have not in the conferences we have hitherto held distinctly announced any such complaint, and I have seen with pleasure in this forbearance on your part an instance of that candor which I doubt not will prevail in all our communications, inasmuch as you could not but have thought it unreasonable to complain of a disavowal of an act done under such circumstances as could only lead to the consequences that have actually followed.

"It was not known when I left England whether Mr. Erskine had, according to the liberty allowed him, communicated to you *in extenso* his original instructions. It now appears that he did not. But, in reverting to his official correspondence, and particularly to a despatch addressed on the 20th of April to His Majesty's Secretary of State for Foreign Affairs, I find

that he there states that he had submitted to your consideration the three conditions specified in those instructions as the ground-work of an arrangement which, according to information received from this country, it was thought in England might be made with a prospect of great mutual advantage. Mr. Erskine then reports *verbatim et seriatim* your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you that these latter were an equivalent for the original conditions, but the very act of substitution evidently shows that those original conditions were, in fact, very explicitly communicated to you, and by you of course laid before the President for his consideration. I need hardly add, that the difference between these conditions, and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation; nor need I draw the conclusion, which I consider as admitted by all absence of complaint, on the part of the American Government, viz: that, under such circumstances, His Majesty had an undoubted and incontrovertible right to disavow the act of his Minister. I must here allude to a supposition which you have more than once mentioned to me, and by which, if it had any the slightest foundation, this right might perhaps have been in some degree affected. You have informed me that you understood that Mr. Erskine had two sets of instructions by which to regulate his conduct; and that upon one of them, which had not been communicated either to you or the public, was to be rested the justification of the terms finally agreed upon between you and him. It is my duty, sir, solemnly to declare to you, and through you to the President, that the despatch from Mr. Canning to Mr. Erskine, which you have made the basis of an official correspondence with the latter Minister, and which was read by the former to the American Minister in London, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with this country on the matter to which it relates."

Mr. Smith to Mr. Jackson—pp. 45, 46.

"The declaration that 'the despatch from Mr. Canning to Mr. Erskine, of the 23d of January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates,' is now for the first time made to this Government. And I need hardly add, that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made."

Mr. Jackson to Mr. Smith—pp. 57, 58.

"I have, therefore, no hesitation in informing you that His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were at the time, in substance, made known to you. No stronger illustration therefore can be given of the deviation from them which occurred than by a reference to the terms of your agreement.

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

"Nothing can be more notorious than the frequency with which, in the course of a complicated negotiation, Ministers are furnished with a gradation of conditions on which they may be successively authorized to conclude. So common is the case which you put hypothetically, that in acceding to the justice of your statement, I feel myself impelled to make only one observation upon it, which is, that it does not strike me as bearing upon the consideration of the unauthorized agreement concluded here, inasmuch as in point of fact Mr. Erskine had no such graduated instruction. You are already acquainted with that which was given, and I have had the honor of informing you that it was the only one by which the conditions on which he was to conclude were prescribed. So far from the terms, which he was actually induced to accept, having been contemplated in that instruction, he himself states that they were substituted by you in lieu of those originally proposed."

Mr. Smith to Mr. Jackson.

"But it would be improper to conclude the few observations to which I purposely limit myself, without adverting to your repetition of a language implying a knowledge on the part of this Government, that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this Government had no such knowledge, and that with such a knowledge no such arrangement would have been entered into, the view which you have again presented of the subject makes it my duty to apprise you that such insinuations are inadmissible in the intercourse of a foreign Minister with a Government that understands what it owes to itself."

Mr. Jackson to Mr. Smith—pp. 70, 71.

"You will find that in my correspondence with you I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and least of all should I think of uttering an insinuation where I was unable to substantiate a fact. To facts, such as I have become acquainted with them, I have scrupulously adhered, and in so doing I must continue, whenever the good faith of His Majesty's Government is called in question, to vindicate its honor and dignity, in the manner that appears to me best calculated for that purpose."

In the first part of the correspondence cited, Mr. Jackson makes three separate and distinct charges. 1. That the arrangement was made under such circumstances as could only lead to a disavowal. 2. That the instructions of Mr. Erskine were communicated to Mr. Smith, and by him to the President. 3. That the instructions communicated were the only instructions which Mr. Erskine had on the subject to which they related.

In the second passage of the correspondence which I have cited, Mr. Smith, passing over the offensive insinuation as to the circumstances under which the arrangement was made, declares, that it is now for the first time communicated to him that the instruction alluded to by Mr. Jackson was the only one Mr. Erskine had, and that with such a knowledge no arrangement would have been made.

In the third passage of the correspondence cited, Mr. Jackson, after a construction had been placed on his insinuations, repeats and adheres to them.

In the fourth passage, Mr. Smith declares to him that, after the explicit declaration made on his part, the insinuations of Mr. Jackson are inadmissible.

In the fifth passage, without any regard to the declarations of Mr. Smith, without noticing the formal intimation given that his insinuations are inadmissible, Mr. Jackson declares, "I have made no insinuation where I cannot substantiate a fact. To facts I shall adhere."

Take the case, sir, as between two individuals in private life: A says to B, you have concluded with my agent an arrangement he was not authorized to make; his powers were shown to you, and with a complete knowledge that his powers were totally inadequate, you have nevertheless concluded a bargain.

B very courteously replies, that it is now for the first time made known to him that the agent of A had no power to make the agreement entered into. That with such a knowledge he should not have concluded a bargain with him.

A, in return, declares, that the powers of his agent were fully made known to B, and that B knew, at the time of making the contract, that the agent had no power.

B, in return, says, that after the explicit declaration made by me, that I had no knowledge of the want of power on the part of your agent, the insinuation contained in your letter is inadmissible.

A, in return, declares, I have made no insinuation which I am unable to substantiate by facts. To facts I shall adhere.

I appeal, sir, to any gentleman who regards his character, whether such a transaction between individuals could terminate in anything but hostility. From the time of Shakspeare, it has been settled that gentlemen cannot, in their intercourse with each other, go further than retort courteous, or reply valiant. It appears that Mr. Jackson, on the present occasion, has overleaped the reply valiant and proceeded to the lie direct. If it had been a case between individuals there would have been nothing left but to run or fight.

I will now, sir, examine some of the reasons urged against the adoption of the resolution. The gentleman from Connecticut, (Mr. DANA,) says, that before he can give the pledge contained in the resolution, of calling into action the whole resources of the nation, he must inquire what those resources are. The resources of the United States are the same with those of every other country where the people are not ground down by oppressive taxes. The ordinary revenue of no country where freedom exists can be equal to the extraordinary expenses produced by war. Public credit is the fund on which all free countries must draw. Our credit as a nation stands high; an honest compliance with our engagements insures to us the floating capital of our own country, which is ample; it is as easy for the Government of the United States to command forty millions of dollars as five. But, says the gentleman, it is a defiance of war; are you prepared to sustain it? Did you not suffer the offending squadron, after the

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

outrage on the Chesapeake, to remain in your waters without an attempt to dislodge them? I remember well, sir, the circumstances which arrested the proceedings of Congress after the attack on the Chesapeake. The gentleman was himself, at that time, an old and respectable member, possessed of talents to support whatever proposition he might offer. Why did he not spur up the lazy drones, who, at that time, conducted the affairs of the nation? Embarked in the same vessel, if he has slumbered at his post while national honor was wrecked, he must bear his portion of the blame. It really appears to me, however, (without meaning anything disrespectful to the gentleman,) that for those who were silent at the time of the attack on the Chesapeake, to come forward now and say, "why was not the offending squadron driven out," is too much in the style of the renowned Captain described by Smollet, who, after suffering himself and the passengers in a stage coach to be robbed, cried out as soon as the robber was out of sight, that he would have his "heart's blood." But, sir, the gentleman from Connecticut (Mr. DANA) feels some scruples about fixing a stigma on the character of Mr. Jackson, a man invested with the highest order of powers. He expresses for him that sort of feeling, which, if applied to a young man flushed with hope, and just entering into life with a fair unblemished character, would do great credit to his heart. Who, sir, is Mr. Jackson? No young stripling, with a character to form; he is already a conspicuous character; his fame, to use an expression of Pindar, has ascended to the skies in curling smoke; he will be as well known in history as Arnold, or any other conspicuous character. In Denmark, he professed peace to the Government, and made war on the people; here, he has changed his system, to use the language of the gentleman from Connecticut, he has made war on the palace, and professed peace to the people. While he grasped with inviolable friendship the hand of the Crown Prince, the lawless banditti he headed sacked their city, and bore off in triumph the Danish fleet. While this transaction shall remain on the records of history the character of Mr. Jackson will find a conspicuous place in the annals of fame. But why, sir, shall we feel delicacy for the character of a man, who, in his intercourse with us, has violated every principle of decorum and decency? The gentleman from Connecticut (Mr. DANA) objects to the wording of the resolution. The terms are hard, such as the President would not use. I do not know whether the gentleman said such as no Christian ought to use, but certainly such as ought not to be used by any branch of the Government. The energy with which the gentleman expressed his feelings on this part of the subject brought forcibly to my mind the story related by Sterne, of Francis the First, who said to his Minister, he would give to a neighboring Republic the honor of standing god-mother for his next child. The Minister remonstrated; Francis is obstinate: a courier announces that the Republic accepts the honor, but claims, as god-mother, the right of

naming the child. Well, says Francis, she will call it Louis, or Henry, or some Christian name. No, says the Minister, she insists on its being called Shadrach-Meshack-Abednego. Francis, in wrath, declares it is not a Christian name; it is not such a name as any Christian ought to use; it is a name no Government ought to pronounce. The name deterred Francis from accepting the honor he had solicited. Perhaps, on the present occasion, the hard names in the resolution may be the only objection of the gentleman from Connecticut. He has declared that the privilege of an Ambassador does not authorize him to attribute to a Government the intentional falsification of a fact; that it does not authorize him to profess peace to the people and make war on the palace. But the gentleman, notwithstanding these strong declarations, will not even trust himself to look at the resolution. He seems, sir, to be under that sort of embarrassment which a girl of sentiment and feeling experiences when very desperately in love, and her wishes opposed by her friends; she likes the lover, but she cannot disoblige her friends; she will not even trust her eyes to dwell on him; whether his tale is true or not she fears to learn; without examination, turns from him; complains of his language, or manners, and throws him off precisely as the gentleman from Connecticut does the resolution, without knowing whether it is true or false.

A gentleman from New York (Mr. EMOTT) has exercised much ingenuity in attempting to show that Mr. Jackson has not been insolent. I have no doubt that if I was to place an apple on my desk, the gentleman could deliver a very ingenious speech to show that it was really not an apple. Suppose, in his attempt, he should establish, that, instead of being a fine Newtown pipin, it was only a sour crab? This is really what the gentleman has done by his construction of the correspondence, so far as respects the conduct of Mr. Jackson; for, after all his ingenuity, he concludes with saying, Mr. Jackson has been rude, very rude indeed. I am willing to join issue on this point, and would for one have had no objection to striking out insolent, and inserting very rude, if that would have secured the gentleman's vote.

The gentleman's argument on the second part of the resolution is founded principally on the circumstance of the conditions in the despatch of the 23d of January, having originated in a representation by Mr. Erskine of certain conversations with members of our own Government. If these conditions originated, as the gentleman supposes, in the idea that they would be acceptable to the American Government, why are they persisted in after the error was made known by the representation of Mr. Erskine to his own Government? Why are they urged as a ground of disavowal? If the propositions did not originate with the British Government, they have been completely adopted by Mr. Canning. But, sir, if the gentleman from New York considers the conditions in the despatch of the 23d of January so offensive, that the Executive of the United States ought at

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

once to have dismissed Mr. Jackson on their being tendered, what does he think of the disavowal of the arrangement, rested avowedly on the failure of Mr. Erskine to obtain a recognition of these conditions? The gentleman has not favored us with his opinions on this subject or on the appeal; he cannot, I am certain, reconcile to himself the justification of either.

I regret, sir, that another gentleman from New York, (Mr. GOLD,) who, in his ordinary deportment and manner displays so much moderation and mildness, should have seized on an occasion like the present to express so much bitter feeling against the administration of his own Government. I wish not to misrepresent anything the gentleman has said, and, if I do, shall feel happy in being put right. The gentleman tells us that Mr. Jackson could not have intended to make the charge, that the American Government knew Mr. Erskine had no power to make the arrangement entered into, because that ground is not taken by the British Government. The British Minister, he says, would have been guilty of a high misdemeanor if he had gone further than was allowed by his own Government. This idea of a high misdemeanor has, I fear, operated too strongly on the gentleman's mind. Instead of viewing the transaction as it really presents itself, he appears to have argued it precisely as if Mr. Jackson was arraigned for an indictable offence, and that it was his duty to exercise all his ingenuity in stating circumstances calculated to palliate or soften his conduct. The gentleman says, that Mr. Smith first agitated the question of different sets of instructions, and that this was calculated to wound and irritate Mr. Jackson, because it can only be considered as a charge of perfidy against the British Government, after the ground taken before all Europe, of disavowing the arrangement, because Mr. Erskine violated his instructions. If, sir, the gentleman is so much alive to an imputation on the British Government, why does he not feel for the honor of his own country? How do we stand before all Europe, with the arrangement disavowed, because Mr. Erskine did not obtain a recognition of the disgraceful conditions in the despatch of the 23d of January? In speaking of the appeal to the people by Mr. Jackson, the gentleman applies to it the mild term incorrect. He says, too, there are many palliating circumstances—the terms are not at all inflammatory—as little offensive as could have been used. While, in viewing the conduct of the British Minister, the gentleman appears to possess all the mildness of my uncle Toby, he judges with a heart of iron the conduct and motives of his own Government. On the 19th of April last, says the gentleman, the Administration was reduced to the brink of ruin. The non-intercourse, buckled on in haste, was about to expire; all its measures had failed; never were there stronger temptations for an Administration to get rid, by honorable means, of a system which had produced only ruin to ourselves. What, sir, is the amount of this charge? Precisely the one made by the British Ministry and its unprincipled Envoy—collusion

between the American Government and Mr. Erskine—concluding an arrangement, knowing he was not authorized to make it. I have seen it some where stated that in arbitrary countries there is nothing excites so much dread among the people as professions of mildness, moderation, and clemency. It always precedes acts of injustice and cruelty. Nor shall I ever again hear a politician declare, as the gentleman has done, that moderation and justice is a lesson of wisdom, without having forcibly recalled to my mind this odious custom in arbitrary countries. While, sir, the gentleman is thus harsh in attributing improper motives to the administration of his own Government, he can discover nothing insulting in the correspondence of Mr. Jackson; if there is any insult, says the gentleman, it is too deep for my understanding. Opinions on affairs of honor depend on our organization. I was once acquainted with a respectable man in Virginia, a practitioner of law, and a Senator, too, who, on receiving a blow with a cane, turned round to the person who gave it and asked, are you in earnest? Yes, says the person, perfectly. Very well, replied the Senator, I am glad of it, for really I should not like such jests. The notions of this gentleman as to what constituted an insult were singular—as singular, I think, as those at present expressed by the gentleman from New York. The gentleman is for placing a sentinel, lest some fell spirit should cause the embargo again to rise. If, sir, a sentinel is to be placed, let it be at the election poll. Let the Goddess of Liberty there take her stand, and warn the voters as they advance of the dangers of division and disunion. Let her unfold to the people what has destroyed all free Governments. What destroyed the first confederated republic under the Amphycionian Council? What destroyed the Achæan league which succeeded it? What has destroyed all the minor Governments of modern Europe? Division produced by foreign influence. The gentleman says, our citizens have enjoyed, and are now enjoying, the blessings derived from being freed from the shackles of embargo, non-intercourse, and all our restrictive system. When, sir, in ancient times, a daughter of one of the Roman Kings drove in triumph over the mangled body of her own father, she rose to power and to wealth. It was by a violation of every moral principle. So, sir, those who have violated the laws of their country may have reaped the profits of their iniquity by committing a crime of the first grade in a free country, arraying themselves in opposition to the will of the community. But why, sir, does the gentleman rake up the ashes of the embargo and non-intercourse? They were used as a shield of his own party. They would serve on the present occasion as a convenient rug for the gentleman himself to creep under. When called on to explain his speech or his vote, it would have been only necessary to pronounce the short word embargo. It is much easier for any gentleman to pronounce this word than explain to the people the reasons why, after all our restrictive system has ceased, our difficulties with Great

Britain remain without a prospect of adjustment.

When Mr. EPPES had concluded, the House adjourned.

THURSDAY, December 28.

The bill sent from the Senate, entitled "An act to authorize the surveying and making of certain roads in the State of Ohio, as contemplated by the Treaty of Brownstown, in the Territory of Michigan," was read twice and committed to a Committee of the Whole on Monday next.

Mr. JOHNSON, from the Committee of Claims, presented a bill for the relief of Jared Shattuck; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. JENNINGS presented a petition of sundry inhabitants of the county of Knox, in the Indiana Territory, praying that an act may be passed to authorize the Land Commissioners for the District of Vincennes, to receive, examine, and decide, on their titles to their several tracts of land, which has not heretofore been done, for the reasons therein mentioned.—Referred.

Ordered, That Mr. MACON and Mr. DANA be added to the committee appointed, on the eleventh instant, for the purpose of inquiring what amendments are necessary in the "Act to promote the progress of useful arts."

CONDUCT OF THE BRITISH MINISTER.

The House again resumed the consideration of the report of the Committee of the Whole on the resolution from the Senate approving the conduct of the Executive in refusing to receive any further communications from Francis J. Jackson.

The motion for indefinite postponement being still under consideration.—

Mr. STANFORD said, so many were the objectionable features of the present resolution before the House, he should vote for its indefinite postponement, and with permission of the House he would give his reasons for his vote. In the first place, he thought the language and style of the resolution highly objectionable, and calculated to render that which was already bad enough still worse; that it was, in the second place, a strange innovation upon all former practice and usage under our present Government; and lastly, that it was clearly unconstitutional. Thus much he should endeavor to show, and trusted he would be able to do it to the satisfaction of the House.

Mr. S. then premised that he had disapproved the introduction of the resolution of approbation at the last session; that, he considered unnecessary; but the present he considered not only unnecessary, but even pernicious. That was a pacific one; this belligerent in all its aspects. He had suggested a mode to one or two gentlemen, of getting rid of that one, if they had thought proper, and in which case he would have contributed his vote to have got clear of it. But, had the question been put in a direct form, he should have differed from his colleague, (Mr. MACON,) inasmuch as he should have voted for it.

He could not have done honestly otherwise, as he had most cordially approved the arrangement made by our Government with Mr. Erskine. Further, that as respected the rejection of Mr. Jackson, he thought entirely with his colleague, that he might well have been dismissed on the receipt of his first letter. He tells us for what he had been sent and commanded to do. In the case of the Chesapeake, to make "declarations" and to receive counter "declarations" simultaneously. In other words, for the arrogance, insults, and murders, we had borne and suffered, he came to stipulate atonement, if we would stipulate a sort of counter atonement at the same time. Stipulation for stipulation, at any rate. It had "*not appeared to His Majesty* necessary to command him to propose to our Government any formal agreement" to take place of the rejected one. For the matter, said Mr. S., of Mr. Jackson's instructions, much rather than for the manner of his negotiation, might the communication have been cut off with him. Both matter and manner were, to be sure, objectionable, but the former, in his estimation, formed much the most solid ground of dismissal. It was but too obvious the mission of Mr. Jackson would end as the former one had done. That he did not come to propitiate us was but too manifest.

While the resolution before us, sir, affects to support the Executive Government against insult, and language "highly indecorous," it descends into a style of expression, itself more culpable and degrading; unworthy, indeed, of the country and the dignity of its Government. It was a flattering truth to know that in the style of diplomatic correspondence the American side of the question suffered not in comparison with that of any other. In the late, as well as former instances, the advantage has been calculated, as he presumed, to inspire every American bosom with just sentiments of pride. Had it, therefore, been recommitted, as his colleague (Mr. MACON) had advised, he had no doubt it could have been amended, and rendered more worthy of consideration as a State paper, than it is likely to be in its present dress and form.

Besides, Mr. Speaker, if the measure be intended to have any effect, it must be a bad one. It looks toward war. Already are our difficulties with Great Britain critical enough, but if gentlemen wish war, the thing is altogether appropriate to its end; well calculated not to support, but to thwart the pacific views and intentions of the Executive. We may, in this way, foreclose the door of amicable negotiation which the Executive by his first Message showed us he had kept open. If rudeness of expression had been resorted to on the part of the British Minister, in his correspondence with our Government, had it not been repelled on their part? Had they not amply redressed the insult of the individual? It might well afford some consolation to ourselves and the country, if other wrongs and insults had been even as well repaired as this. Besides the murder of Pierce, the more horrid murders on board the Chesapeake, the continuation of impress-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

ments for years, we have had instances, more than one, it is said, of other Ministers conspiring with your conspirators, menacing you with war, and putting your Government at defiance, here in the ten miles square, and the sensibility of Congress had never before been awakened to a resolution of this kind in defence of the Executive. The truth is, sir, it never needed it, nor does it now. We have, in very deed, Mr. Speaker, refined upon the more substantial insults we have suffered, till we have literally reduced it to a *war of words*. It is the *expressions* of the individual we are combating, and pledging the whole force of the country to protect the President against the consequences of, and not the more palpable injuries received. Would to Heaven, sir, such a resolution had not been brought forward! It is unworthy of us—unworthy of the political professions we heretofore made, even those made at our late session.

That a resolution of approbation, Mr. Speaker, is against all example for the last eight years; that it is an innovation upon all usage and practice, reference need only be had to the speeches of gentlemen during the last session. They afford the most ample proof. They were then unwilling to pour out the oil of adulation upon the Executive head. It was deemed unnecessary, anti-republican, to do so. He hoped gentlemen understood him. He was using their own language upon that occasion, and not his own. He borrowed it for its excellence and fitness upon the present occasion. Such language conveyed his sentiments *then*, and *still did*; and, for his part, he could not comprehend how it could be correct then, and now the reverse of correct. Some gentlemen on the floor perfectly remembered that when Mr. Jefferson came into the Presidency, eight years ago, he changed the mode of personal address into that of written message. "In doing this," said he, in his first Message, "I have had a principal regard to the convenience of the Legislature, to the economy of their time, to their relief from the embarrassment of immediate answers on subjects not yet fully before them, and to the benefits thence resulting to the public affairs." All acquiesced in this new course, and from that time till the late instance mentioned, no time had been wasted in pouring back the oil of adulation or approbation, in any form, on the Executive head. The only instance which could be cited during the last eight years, was found incidentally incorporated in a resolution relating to the navigation of the Mississippi. The words were, "and relying with perfect confidence on the vigilance and wisdom of the Executive." This, then, was the only drop of this oil which the last Administration produced, and has been called up at this first ordinary session of a new Administration to form an example to follow; or rather, might we not say, to resume the exploded practice of former times, and thus echo back messages in this new form of joint resolution. But what was the style in which gentlemen spoke at our last summer session, when the subject of approbation was then before us? The

language of one was, "if it were the object to bring before the House a discussion upon the Message of the President, and to return an answer to his Excellency's most gracious Message, he should certainly be opposed to it. If there had ever been a particular part of the former Administration which had met the approbation of the Republicans generally of this country, it was the discontinuance of the practice." Another had told us that he was "opposed to a deviation from what he conceived to be the duty, and becoming the dignity of the House." He thought the House had nobler duties to perform than passing abstract resolutions, out of which no legislative act is contemplated, merely for the purpose of pouring the oil of adulation upon the head of the Chief Magistrate." And, again, the gentleman from Pennsylvania, (Mr. FINDLEY,) whose opinions are always so much relied upon and respected in this House, and he, Mr. S., trusted by few more sincerely than himself, had, upon that occasion, with singular happiness and force, spoken thus: "Law," said the gentleman, "is the only language of a Legislature. It is the only language that can command obedience and respect. Any equal number of citizens met in a tavern, and there passing a resolution of approbation, would have equal force with such a resolution passed in this House, and would be more in character. They are acting without authority from the Constitution or the rules of the House." It would be for that gentleman to tell us, to tell the House, and he would beg the gentleman's pardon for the particular request—but he must request that he would take the occasion to let us all know how his doctrine then is now to be got over. For his own part, he could not comprehend how right and wrong could change their respective sides in so short a time.

The gentleman from New York (Mr. FISK) had, also, at the late session of Congress, made a long, and by no means unhandsome display of his talents in a speech against "approbating the Executive," and a like lengthy display at the present session in favor of "approbating." The gentleman then thought a resolution of this kind "extraordinary." "He was against giving his vote of approbation as a Representative in this body, however meritorious might be the action which he had performed. He had not done an act of supererogation. He had only done his duty." Again, "he never wished to see that House converted into a temple for offering up adulation to the Executive Magistrate," and, finally, concluded with saying he "should vote for the indefinite postponement of the resolution. The House were setting a dangerous precedent, highly pernicious to the nation. They were going out of the line of their duty pointed out by the Constitution. If the motion to postpone did not succeed, he should not vote at all." The gentleman had, indeed, referred us back to the unexemplary times of 1798, and 1799, when we know the echoing approbation system was the fashion, not with a view, perhaps, in so many words, to recommend them for our present model,

but to show the gentlemen on the other side of the House they had once thought differently, and had in the course of ten years, played the "political roundabout," and yet, by the same showing, the gentleman had himself shown that he had played the "political roundabout" in six short months. The "wheel and the dust" flew in one direction at the last session, and at the present it flies in the opposite direction, with equal velocity and more "dust;" and the gentleman, all the while, keeps pleasantly on the top—that part of the wheel which they say in Virginia runs the fastest, and he believed they were right, for so it does here, and there too.

His colleague, (Mr. MAÇON,) in referring to former times, had expressed some doubt whether the majority were the same party now they were then. He felt no doubt himself they were the same; but there was no room to doubt, from the present question itself, they had undergone some strange modification since former times. The doctrines then must be well remembered by him, yourself, Mr. Speaker, and a few others on this floor. The advocates of this sort of adulation must go back beyond the times of the late and last Administration, if they would introduce the fashion again. At the opening of the fifth Congress, in the answer of this House to the speech of the President, these words are used: "We cannot omit to testify our approbation of the measure, and to pledge ourselves that no considerations of private inconvenience shall prevent, on our part, a faithful discharge of the duties to which we are called." And again, this sentence: "Whilst we view with great satisfaction, the wisdom, dignity, and moderation, which have marked the measures of the Supreme Executive of our country in its attempt to remove, by candid explanations, the complaints and jealousies of France, we feel the full force of that indignity which has been offered our country in the rejection of its Minister." This language was too much in the style of adulation for us then to brook, and our names, sir, stand recorded together against it. Let gentlemen compare for themselves.

It is the peculiar misfortune, sir, of this system, if again to be revived, that the right of approbation fully implies the right of disapprobation and censure; and during the same Administration of which we are speaking, this right of disapproving and censuring was also attempted to be exercised. The resolution was introduced at the first session of the sixth Congress, by a gentleman then from the city of New York, (Mr. LIVINGSTON,) in the case of Jonathan Robbins. The same gentleman is occasionally present here at this time, and seems yet to be a stickler for judicial decision, and still thinks the Executive, against an individual, matchless odds. The part of the resolution alluded to, runs thus: "that the decision of those questions by the President of the United States against the jurisdiction of the courts of the United States, in a case where those courts had already assumed and exercised jurisdiction, and his advice and request to the judge

of the district court, that the person thus charged should be delivered up, provided, only, such evidence of his criminality should be produced as would justify his apprehension and commitment for trial, is a dangerous interference of the Executive with judicial decisions." Hence, then, sir, it might be easily seen from a practice of this sort, that a whole session might be wasted without doing any part of the public business. The thing would be endless.

In the fourth Congress, on the subject of a call for papers in relation to the British Treaty, an unhappy difference arose between this House and the Executive. General WASHINGTON was the President. His reply to the House was, "that a just regard to the Constitution, and to the duty of his office, forbid a compliance with their request." The House again, by resolution, asserted their right, disclaiming, however, at the same time, any agency in making treaties. Notwithstanding the violence and passion of the moment, this House did not then think they had any right to meddle with the making of treaties; but now, it would seem the present House were disposed to join the Senate in this sort of interference in the negotiations of the Executive to form a treaty.

In all the cases alluded to, sir, it should be distinctly kept in view, that each House had acted for itself in voting their approbation and homage to Executive speeches and proclamations. He had reference to the proclamation of neutrality by General WASHINGTON. This was the first time Congress ever legislated approbation before.

But, Mr. S. said, not to protract the observations he had intended to make to an unnecessary length, he would come to his last position, which he deemed unanswerably conclusive. But, if he had misconceived the real force of that argument, or any other, it was competent for any gentleman to show it. The different gentlemen of the House had discovered much learning and research upon the occasion in hunting up authorities; but what had books on the laws of nations to do with the present resolution before us? What Wicquefort, Grotius, Martens, Puffendorff, and Vattel, had to do with it, he was entirely at a loss to perceive. A case against a case gentlemen had pretty clearly made out from these differing and different writers. Admit the arguments on either side, and still the propriety or impropriety of passing the present resolution was not to be affected or involved. He held in his hand the Constitution of the United States. He would make that his text book, and would beg leave to call the attention of the House to a single paragraph which it contained. It was the third of the seventh section, and first article, and reads thus:

"Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except on a question of adjournment), shall be presented to the President of the United States; and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

Mr. S. then observed he trusted the House would recollect that Congress were about to act, upon the present occasion, in their joint, solemn, legislative capacity; that the resolution was a *joint* one, and being so, it was one "to which the concurrence of the Senate and House of Representatives may be, and was, necessary," and indispensable. Hence, then, of necessity, it must be presented to the President for his approbation, before it could take effect, or, being disapproved by him, would have to take the course prescribed in the case of bills. Thus we see the unprecedented novelty, not to say absurdity of the thing. Both Houses, the Congress, the Legislature of the United States, pass a resolution approving the President. The President has to receive it, and *approve our approbation*; in other words, to *approve himself*—for as to disapprobation, that must be presumed to be out of the question; that could not be imagined. It would place the President in an unpleasant predicament, a thing no way necessary to be done, and, for one, he would not contribute to do it. And besides, when a paper like the present shall have been legislated through the several branches of the Government, shall have passed through all its forms in the great Councils of the Nation, it must be considered a State paper of no ordinary cast; and, in all probability, would become the subject of diplomatic correspondence abroad. At least, it was likely our Minister in London would have to be informed something about the occasion, the style, the form, and motives, of such a resolution on the part of our Government. He had seen almost every State paper required some such explanation, and we had no reason to believe such necessary explanation would be withheld.

Among the enumerated and specific powers given to Congress were to be seen the power to lay and collect taxes, borrow money, regulate commerce, establish rules of naturalization, coin money, and the like; all looking to some fair and proper object of general legislation; thence, some exercise of the Executive function, and some ultimate, probable, public good. But nothing of all this attaches to the present measure. It is, in its true character, nothing but *words*—an abstract, inoperative thing; a dead letter the moment it passed. Powers not delegated were retained, reserved to the people, and no such power as that we were about to exercise could be made appear to belong to Congress as a Legislature. It was the peculiar right of the people to approve or disapprove their functionaries, but not of the Congress, in any other way than the Constitution pointed out. If any gentleman on the floor could lay his hand upon his heart, and read this paragraph of the Constitution, and then say that we could, or ought to pass upon such a resolution, (for, let it be remembered, we are legislating—acting in our joint capacity,) it was more than he could allow himself to say, or to believe, under his oath to support it. If, indeed, we are now to form a new precedent, to be resorted to upon all future occasions, to give in to this new species of legislation, the field is an ex-

tended one, and we shall but distract ourselves, and commit an endless waste of time to no good purpose. Nothing good, and much evil may grow out of it.

Should the resolution, said Mr. S., be finally adopted, he would be permitted to say it was the first of the kind Congress ever had passed before, and he would defy the research of any gentleman in the House, however accurate, to find a single example of the kind since the Government commenced. The proceedings of both Houses were on record, and spread on the Journals of each, and if there was the shadow of a precedent for the measure he hoped it would be found. He humbly entreated of gentlemen to point it out. Mr. S. concluded with saying so exceptionable was the resolution to him in point of style, in point of form, and in point of Constitutionality, he sincerely wished its postponement; and if that would not do, and it must finally pass, it would have to do it without his vote.

MR. QUINCY.—It is not my intention, Mr. Speaker, to offer any common-place apology for the few observations I shall submit to the House on the subject now under consideration. Such is the character, and such the consequences of these resolutions, that no man, who had at heart the honor and happiness of this country, ought to continue silent, so long as any topic of illustration is unexhausted, or any important point of view unoccupied.

It is proposed, sir, that this solemn assembly, the representative of the American people, the depositary of their power, and in a Constitutional light, the image of their wisdom, should descend from the dignity of its legislative duties, to the task of uttering against an individual the mingled language of indignation and reproach. Not satisfied with seeing that individual prohibited the exercise of his official character, we are invited to pursue him with the joint terrors of legislative wrath, couched in terms selected to convey opprobrium and infix a stigma. "Indecorum," "insolence," "affront," "more insolence," "more affront," "direct, premeditated insult and affront," "disguises, fallacious and false;" these are the stains we are called upon to cast; these the wounds we are about to inflict. It is scarcely possible to comprise, within the same compass, more of the spirit of whatever is bitter in invective, and humiliating in aspersion. This heaped up measure of legislative contumely is prepared; for whom? For a private, unassisted, insulated, unallied individual? No, sir. For the accredited Minister of a great and powerful Sovereign, whose character he in this country represents, whose confidence he shares; of a Sovereign who is not bound, and perhaps will not be disposed to uphold him, in misconduct; but who is bound, by the highest moral obligations, and by the most impressive political considerations, to vindicate his wrongs, whether they affect his person or reputation, and to take care that whatever treatment he shall receive shall not exceed the measure of justice, and above all, that it does not amount to national indignity.

Important as is this view of these resolutions, it is not their most serious aspect. This bull of anathemas, scarcely less than Papal, is to be fulminated, in the name of the American people, from the high tower of their authority, under the pretence of asserting their rights and vindicating their wrongs. What will that people say, if, after the passions and excitements of this day shall have subsided, they shall find—and find I fear they will—that this resolution is false, in fact; that a falsehood is the basis of these aspersions upon the character of a public Minister? What will be their just indignation, when they find national embarrassments multiplied, perhaps their peace gone, their character disgraced, for no better reason than that you, their representatives, following headlong a temporary current, insist on making assertions, as they may then, and I believe will, realize to be not authorized by truth, under circumstances, and in terms, not warranted by wisdom?

Let us not be deceived. It is no slight responsibility which this House is about to assume. This is not one of those holiday resolutions, which frets and fumes its hour upon the stage and is forgotten forever. Very different is its character and consequences. It attempts to stamp dishonor and falsehood upon the forehead of a foreign Minister. If the allegation itself be false, it will turn to plague the accuser. In its train will follow severe retribution, perhaps in war; certainly in additional embarrassments, and most certainly, in worse than all, the loss of that sentiment of self-esteem, which to nations, as well as individuals, is "the pearl of great price;" which power cannot purchase, nor gold measure.

In this point of view, all the other questions which have been agitated in the course of this debate dwindle into utter insignificance. The attack or defence of Administration, the detection of fault, or even the exposure of crime are of no importance when brought into competition with the duty of rescuing this House and nation from the guilt of asserting what is false, and making that falsehood the basis of outrage and virulence. I avoid, therefore, all questions of censure or reproach on either the British Minister or the American Secretary of State. I confine myself to an examination of this resolution, particularly of the first branch of it. This is the foundation of all that follows. I shall submit it to a rigid analysis, not for the purpose of discovering how others have performed their duties, but of learning how we shall perform ours. The obligation to truth is the highest of moral and social duties.

It is remarkable, Mr. Speaker, that of all the gentlemen who have spoken, no one has taken the precise terms of the resolution as the basis of his argument, and followed that course of investigation which those terms naturally prescribe. Yet the obvious and only safe course, in a case of such high responsibility, is first to form a distinct idea of the assertion we are about to make, and then carefully to examine how that assertion is supported, if supported at all, by the evidence.

With this view I recur to the resolution, in the form in which it is proposed for our adoption, and make it the basis of my inquiries.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the expressions contained in the official letter of Francis J. Jackson, Minister Plenipotentiary of His Britannic Majesty near the United States, dated the 23d day of October, 1809, and addressed to Mr. Smith, Secretary of State, conveying the idea that the Executive Government of the United States had a knowledge that the arrangement lately made by Mr. Erskine, his predecessor, in behalf of his Government, with the Government of the United States, was entered into without competent powers on the part of Mr. Erskine, for that purpose, were highly indecorous and insolent."

This part of the resolution, it will not be denied, is the foundation of the whole. For if no such "idea was conveyed" in the letter of the 23d of October, then there could be no "repetition" of that idea, in the letter of the 4th of November; and if in the former part of his correspondence Mr. Jackson had made no such "insinuation," then the assertion in this letter that he had made none, was perfectly harmless and justifiable. This part, therefore, includes the pith of the resolution. If we analyse it, we shall find that it contains two distinct assertions. First, that the expressions alluded to convey a certain idea. Second, that this idea, so conveyed, is indecorous and insolent. Here again we are enabled to limit the field of our investigation. For, if no such idea, as is asserted, was conveyed, then the inquiry, whether such idea is indecorous and insolent, is wholly superseded. The true and only question, therefore, is, *whether the expressions alluded to, do convey the asserted idea.* I place the subject in this abstract form before the House to the end that, if possible, we may exclude all those prejudices and partialities which so naturally and imperceptibly bias the judgment. In the light in which it now stands, it must be apparent to every one who will reflect, that the question has, so far as it respects the principles on which our decision ought to proceed, no more to do with the relations between Great Britain and the United States, than it has with those between the United States and China, and has no more connexion with Mr. Francis J. Jackson and Mr. Robert Smith, than with the late Charles of Sweden, and the old Duke of Sudermania. It is a simple philological disquisition, which is to be decided by known rules of construction. The only investigation is, touching the power or capacity of certain terms to convey an alleged idea. However illy suited a question like this may be for the discussion of an assembly, like the present, yet if we would be just to ourselves and the people, we must submit to an examination of it, in that form in which alone certainty can be attained. It is only by stripping the subject of all adventitious circumstances, that we can arrive at that perfect view of its nature which can satisfy minds scrupulous of truth, and anxious concerning duty. It is only by such a rigorous scrutiny

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

that we shall be able to form that judgment which will stand the test of time, and do honor to us and our country, when the passions of the day are passed away and forgotten.

The natural course of inquiry now is, into the idea which is asserted to be conveyed, and the expressions which are said to convey it. Concerning the first there is no difficulty. The idea asserted to be conveyed is, "that the arrangement made between Mr. Erskine and Mr. Smith was entered into by the American Government, with a knowledge that the powers of Mr. Erskine were incompetent for that purpose." It would save a world of trouble if the expressions in which this idea is said to be conveyed were equally easy of ascertainment. But on this point, those gentlemen who maintain this insult are far from being agreed. Some being of opinion that it is to be found in one place, some in another, and others again assert that it is to be found in the whole correspondence taken together. Never was an argument of this nature before so strangely conducted. Gentlemen seem wholly to lay out of sight that this resolution pledges this House to the assertion of a particular fact, and expresses no general sentiment concerning the conduct of Jackson, or the conduct of his Government. Yet, as if the whole subject of British relations was under discussion, they have deemed themselves at liberty to course through these documents, collect everything which seems to them indecorous, insolent, or unsuitable in Mr. Jackson's language, and add to the heap thus made the whole list of injuries received from Great Britain—impressments, affair of the Chesapeake, murder of Pierce—and all this, for what purpose? Why, truly, to justify this House in making a solemn asseveration of a *particular fact*! As if any injury in the world could be even an apology for the deliberate utterance of a falsehood. Let the conduct of Mr. Jackson, or of Great Britain, be as atrocious as it will, if the fact which we assert do not exist, we and this nation are disgraced. It is evident, then, that irksome as such a task is, it is necessary that we should submit to a precise inquiry into the truth of that to which we are about to pledge our reputation and that of this people.

In our investigation, let us follow the natural course that is pointed out in the resolution. This alleges that the obnoxious expressions are contained in the letter of the 23d of October, and to this limits our assertion. In this letter, therefore, either directly, or by way of reference to some other, this obnoxious idea or insinuation must be found. For if it be not in this, even if it should be contained in other parts of the correspondence, which is not, however, pretended, still our assertion would be false. Concerning this letter of the 23d of October, I confidently assert, without fear of contradiction, that the obnoxious idea, if contained in that letter, is conveyed in the paragraph I am now about to quote. No man has pretended to cite any part of this letter, as evidence of the asserted insult, except the ensuing, and although there is not a perfect coincidence in

opinion as to the particular part in which it resides, yet all agree that it lurks somewhere in this paragraph, if it have any dwelling place in this letter.

"I have, therefore, no hesitation in informing you that His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were, at the time, in substance, made known to you; no stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement. Nothing can be more notorious than the frequency with which, in the course of complicated negotiation, Ministers are furnished with a gradation of conditions on which they may be successively authorized to conclude. So common is the case which you put hypothetically, that in acceding to the justice of your statement, I feel myself compelled to make only one observation upon it, which is, that it does not strike me as bearing upon the consideration of the unauthorized agreement concluded here, inasmuch as in point of fact Mr. Erskine had no such graduated instruction. You are already acquainted with that which was given, and I have had the honor of informing you that it was the only one by which the conditions on which he was to conclude were prescribed. So far from the terms which he was actually induced to accept, having been contemplated in that instruction, he himself states that they were substituted by you in lieu of those originally proposed."

I have quoted the whole paragraph because, in that obscure and general mode of argument in which gentlemen have indulged, it has been read as that entire portion in which the insult is conveyed. It is difficult to conceive how some parts of this paragraph can be thought to convey any insult. However, in prosecution of my plan, I shall first exclude all those parts in which the obnoxious idea cannot be pretended to exist, and then limit my investigation to that part in which it must exist, if, in the letter of the 23d of October, it be conveyed at all.

With respect to the first sentence in this paragraph, I say confidently that the insult is not contained there. It is simply a declaration of the causes of the disavowal, so far from including the obnoxious idea of a knowledge in our Government of the incompetency of Erskine's powers, that in a manner it excludes that idea, by enumerating violation of instructions, and want of authority as the only causes of the disavowal. In the first sentence, then, the insult is not. I pass by the second, as it will be the subject of a distinct examination hereafter. The third and fourth sentences it will not even be pretended convey this obnoxious idea. They simply acknowledge the frequency of graduated instructions, and assert the fact that Mr. Erskine's were not of that character. In this there is no insult. As little can it be pretended to exist in the fifth sentence. It merely asserts that Mr. Smith "*already*," that is, at or before the time Mr. Jackson was then

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

writing, is acquainted with the instructions, (a fact not denied, and not suggested to be an insult,) and that the fact of these instructions being the only ones, Mr. Smith knows *from the information of Mr. Jackson*—an assertion, which so far from intimating the obnoxious idea of a knowledge in Mr. Smith at the time of the arrangement with Mr. Erskine, that it conveys a contrary idea, by declaring that he was indebted for it to his (Mr. Jackson's) information. Here, then, the insult is not. With respect to the last sentence in this paragraph, the only assertions it contains, are the fact that the terms accepted were not contained in the instructions, and the evidence of this fact, derived from the statement of Erskine that those acceded to were substituted by Mr. Smith in lieu of those originally proposed. In all this, the knowledge of Mr. Smith of the incompetency of Mr. Erskine's powers is not so much as intimated. Indeed no one has pretended directly to assert that they have found it in the parts of this paragraph, from which I have thus excluded the obnoxious idea. Yet, as the whole has been cited, and made the basis of desultory declamation, I thought it not time lost to clear out of the way all irrelevant matter, and to leave for distinct examination the only sentence of this paragraph in which the insult lurks, if it has any existence in this letter. This point we have now attained. And as little inclined as gentlemen may be to precise investigation, they must yield to it. I say, therefore, confidently, and without fear of contradiction, that if the assertion contained in this resolution be capable of justification by any part of the letter of the 23d of October, it is by the following, the only remaining sentence of the cited paragraph which I have not yet examined: These instructions I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were, at the time, in substance made known to you; no stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement." The latter part of this sentence being merely a conclusion from the preceding part, and having no relation to the knowledge of our Government at the time of the arrangement, will be laid out of consideration as being obviously wholly without the possibility of any agency in conveying the obnoxious idea. There remains only the preceding part of this sentence for the residence of the insult. Here, if anywhere, it must exist. Accordingly this is usually shown as the spot where the ghost of insinuation first appeared before the eyes of our astonished Administration. Here we shall again find it; unless, indeed, it were in fact a mere delusion of the fancy, formed of "such stuff as dreams are made." Let us examine by way of analysis.

The sentence to which the advocates of this insulting insinuation are now reduced contains, first, a fact asserted; second, the sources from which a knowledge of that fact is derived. The fact asserted is, that the "instructions were, at

the time, in substance made known to you." The sources stated are Mr. Smith's "letter of the 19th of October, and the obvious deductions in his (Mr. Jackson's) letter of the 11th." The question is, whether in either of these branches, or in both taken together, directly, or in the way of reference, the following idea is by any fair construction conveyed, viz: "That at the time of the arrangement with Mr. Erskine, the Government of the United States had a knowledge of the incompetency of Erskine's powers."

Previous to proceeding further, I wish to make a single observation, by way of illustrating the nature and strength of the argument I shall offer. To induce this House to adopt a resolution so pregnant with consequences to the hopes and character of this people, it cannot be sufficient merely to show that the insinuation, on which their assertion is predicated, *may* be conveyed, it will require certainty that *not only this idea is, but also that no other possibly can be*. Surely if it be possible to show, or even make it probable, that another and an innocent idea may be conveyed, this House will never consent to make an assertion of such high responsibility on such dubious ground. For the purpose of defeating this resolution, it would therefore be amply sufficient for me to show that an idea, other than the obnoxious one, *may* be conveyed. But I do not limit myself to this task, I undertake to show not only that another idea than the obnoxious one *may* be conveyed, but that another *is*, and that the idea asserted in this resolution is not, and by any fair construction of language cannot possibly be, conveyed by these expressions.

The question recurs, in the fact asserted, in this sentence, Is the knowledge of our Government of the incompetence of Erskine's powers intimated? So far from conveying such an idea, that it intimates nothing concerning the knowledge of our Government in relation to the general state of Mr. Erskine's powers. The simple assertion is, "you knew the substance of those instructions," because you admit you knew the conditions, and I tell you these were the substance. So far from this assertion conveying the idea of a knowledge in our Government of the general state of Mr. Erskine's power, that if Mr. Jackson had here expressly asserted that those instructions were shown *in extenso* to our Government, although this, after the denial of Mr. Smith, might have been insult, yet it would not have conveyed the obnoxious idea, nor authorized this resolution, unless he had also asserted, or it was a fact, that those instructions included an exclusion of all other powers. Because the assertion of the knowledge of a particular power, which does not include such an exclusion, can never convey the idea of the general incompetency of the agent. In order to make my argument distinct, I will state it more generally. If a particular power contain an exclusion of all other powers, except those expressed in it, then, an assertion that this particular power was known may convey the idea of a knowledge of the general incompetency of the agent. But if such par-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

ticular power does not in fact contain an exclusion of all other powers, then to assert that this particular power was known, can never convey the idea of a knowledge of such general incompetency. In this case it is not even suggested that the instructions in question did include any such exclusion of other powers. An assertion, therefore, that they were known, can never convey the idea of a general knowledge of the incompetency of the agent, unless a part can be made to include the whole, and an assertion that one thing is known can be made to convey the idea that everything is known. If, then, an assertion of a knowledge in our Government of the instructions *in extenso*, would not have conveyed the idea of a general knowledge of Mr. Erskine's powers; by much stronger reason a simple assertion, that not only the substance of those instructions was known cannot convey that idea. I say, therefore, that so far as respects the fact here asserted, not only another idea than the obnoxious one, *may be* conveyed, but that another idea is, and that the idea this resolution asserts, cannot by any possibility be conveyed. So that if this idea is to be found anywhere in this letter of the 23d of October, it must be in consequence of the reference to the two letters of the 19th and the 11th, which Mr. Jackson says were the sources by means of which he understood the facts he asserts. Into these letters, therefore, we must look after the insulting idea, for we have now shown that it is not in the letter of the 23d of October, unless it be by virtue of this reference.

With respect to Mr. Smith's letter of the 19th, the assertion "I understand by your letter, (that of the 19th,) that the substance of those instructions was known to you," has been represented as insolent. So far from being insolent, it is not so much as a contradiction. Mr. Smith says, "I knew the three conditions." "That is what I say," replies Mr. Jackson, "you know the substance, because I tell you that those three conditions were the substance." Here is no contradiction. The only fact open to dispute is, whether the three conditions were the substance. Mr. Jackson indeed asserts, but Mr. Smith does not deny this fact. He only admits that he knew the three conditions; neither admitting nor controverting the fact asserted by Mr. Jackson that they were the substance. But, taking it for granted that this assertion was insolent, general insolence is no justification to this House for asserting a particular fact. It is enough, however, for the present argument to observe, that the obnoxious idea, which is the basis of the resolution, cannot be conveyed by means of this reference to the letter of the 19th, not only from the argument just now adduced, and showing that even the assertion that these instructions were known *in extenso* would not have conveyed that idea, but also from this further consideration, that no gentleman has pretended that it was in consequence of this reference to that letter that this obnoxious idea was conveyed.

The advocates of this insult and of this resolution are, therefore, driven back to the letter of

the 11th. If it be not found here, it can be found nowhere, at least to justify this resolution. With respect to this letter of the 11th, we are subjected to the same difficulty to which we were reduced in relation to the letter of the 23d. Many passages have been read for the purpose of general comment, to which, in pursuance of my plan, I shall make no allusion. I confine myself only to those passages which have been cited to prove the particular idea asserted in this resolution. None of these I shall omit. With anything else under this resolution we have nothing to do, unless we are willing, by suffering extraneous influence to operate, to mislead our own judgments, and to deceive our fellow-citizens.

The following paragraph in the letter of the 11th of October, is the first, and the one principally relied upon, to prove the existence of that obnoxious insinuation which is the basis of the resolution. "I observe, that in the records of 'this mission there is no trace of complaint on 'the part of the United States of His Majesty 'having disavowed the act of his Minister. You 'have not in the conferences we have hitherto 'held, distinctly announced any such complaint, 'and I have seen with pleasure, in this forbearance on your part, an instance of that candor 'which I doubt not will prevail in all our communications, inasmuch as you could not but 'have thought it unreasonable to complain of the 'disavowal of an act done under such circumstances as could only lead to the consequences 'that have actually followed.'" Here is the insult, the advocates of this resolution assert, in a sort of embryo state. Let us look at it through the spectacles of the friends of the Administration, without any disposition to distort or to change any of its proportions. The features of this insult, say these gentlemen, consist in this: first, in referring to the thoughts of Mr. Smith; second, in intimating that his thoughts must have been such as to satisfy him that it was unreasonable to complain of an act done under such circumstances. In this the insult consists. In other words, in this the obnoxious idea is conveyed; because it implies a knowledge in Mr. Smith, that it was done under circumstances which could only lead to a disavowal. Now, say they, the circumstance which could only lead to a disavowal, is a knowledge in Mr. Smith at the time of the arrangement of the incompetency of Mr. Erskine's powers. Thus, say they, the knowledge of that incompetency is implied, and the idea asserted in this resolution, conveyed. This is a fair and full statement of their argument. I reply—I do agree that these expressions do imply a knowledge in Mr. Smith, that it was done under circumstances which could only lead to a disavowal. But it does not imply that this knowledge existed in Mr. Smith at the time of the arrangement made; but, on the contrary, does imply and can imply only a knowledge in Mr. Smith at the time of the disavowal known. The former is the only implication which can possibly be obnoxious, the latter is most innocent, because at the time of the disavowal known, the

circumstances which led to that disavowal were communicated. An intimation of this knowledge in Mr. Smith could not but be, therefore, perfectly inoffensive. That these expressions cannot imply a knowledge in Mr. Smith at the time of the arrangement made, and can only imply a knowledge in him at the time of disavowal known, I argue from this fact, that the only time intimated is the time when Mr. Smith "could not but have thought it unreasonable to complain of the disavowal." Now Mr. Smith could not have begun to think of complaining of the disavowal, until the disavowal was known to him; and with that knowledge came also the knowledge of the circumstances which led to it. Nothing, therefore, can be more plain than that the time here implied is the time after the disavowal was known, and not the time of the arrangement made. The fair construction of these expressions is, "you must have thought it, Mr. Smith, unreasonable to complain after you knew of the disavowal, for that knowledge apprized you that the act was done under circumstances which could only lead to a disavowal." I say, therefore, that the idea asserted in this resolution (a knowledge in Mr. Smith at the time of the arrangement) is not conveyed in this paragraph; another idea is conveyed, viz: a knowledge at the time of disavowal known. I say further, that the idea of knowledge and incompetency of Mr. Erskine's powers, in Mr. Smith, at the time of the arrangement, cannot by any possibility be conveyed, unless the assertion of a knowledge, existing at a time subsequent, can be made to express such knowledge, limited to a time antecedent. The only knowledge implied is subsequent to disavowal, and so by no possibility can be wrested to express the state of knowledge at a time antecedent to disavowal.

The ensuing paragraph I cite at large, because it has been quoted by some of the advocates of this resolution as containing the obnoxious idea, although it requires only a single perusal to satisfy any mind that it is impossible that the far greatest part of it can contain anything offensive. It is the only paragraph remaining unexamined which has been thus quoted, and will require a very short elucidation. "It was not known when I left England, whether Mr. Erskine had, according to the liberty allowed him, communicated to you, *in extenso*, his original instructions. It now appears that he did not. But, in reverting to his official correspondence, and particularly to a despatch addressed on the 20th of April to His Majesty's Secretary of State for Foreign Affairs, I find that he there states that he had submitted to your consideration the three conditions specified in those instructions, as the groundwork of an arrangement, which, according to information received from this country, it was thought in England might be made with a prospect of great mutual advantage. Mr. Erskine then reports, *verbatim et seriatim*, your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in

lieu of them. It may have been concluded between you that these latter were an equivalent for the original conditions, but the very act of substitution evidently shows that those original conditions, and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation; nor need I draw the conclusion which I consider as admitted by all absence of complaint on the part of the American Government, viz: that under such circumstances His Majesty had an undoubted and incontrovertible right to disavow the act of his Minister."

On this passage it is only necessary to remark, that so far as it respects the assertion that Mr. Erskine had submitted to Mr. Smith the three conditions specified in those instructions, the fact is admitted by Mr. Smith; that so far as it respects Mr. Jackson's assertion that Mr. Erskine reports, in his official correspondence, the reasons which induced Mr. Smith to think that others might be substituted in lieu of them, that it is not denied by Mr. Smith. For, in his letter of the 19th, Mr. Smith, referring to this subject, expresses himself very cautiously, that Mr. Erskine "on finding his first proposals unsuccessful, the more reasonable terms comprised in the arrangement respecting the Orders in Council were adopted;" without denying, as he would, if it had been false, and he thought it material, that he had offered "reasons to Mr. Erskine which had induced Mr. Smith to think that others might be substituted in lieu of them." But whether true or false, the assertion that Mr. Smith had offered such reasons to Mr. Erskine can never, by any fair construction, be made to convey the idea that Mr. Smith knew that Mr. Erskine's powers were limited to the three conditions, or, in other words, that Erskine's powers were incompetent. Upon the next sentence, the gentleman from Pennsylvania (Mr. MILNOR) lays great stress, asserting that "it conveys the idea that Mr. Smith had overreached Mr. Erskine." Concerning this sentence my first assertion is, that whatever else it may convey, it can never convey the idea asserted in this resolution. For certainly, to say of two classes of conditions under consideration, that Mr. Smith and Mr. Erskine concluded together, that the one was equivalent to the other, can only imply a comparison and a knowledge of those classes, and by no possibility can imply the state of Mr. Smith's knowledge in relation to Mr. Erskine's right to conclude concerning either of them. So that for all the purposes of supporting this resolution it is utterly useless, whatever other demerit it may have. The strenuousness of the gentleman from Pennsylvania (Mr. MILNOR) on this point, shows the crude ideas which even he, usually so acute and correct, entertains concerning his duties on this occasion. His great aim was to show that Mr. Jackson here intimates the idea that Mr. Smith had overreached Mr. Erskine. Well, suppose he had said this directly in so many words? Would that justify this House in voting that Mr. Jackson had conveyed the idea asserted in this reso-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

lution? It is the universal fallacy—prove anything rude or indecent, and it is a sufficient justification to this House for asserting a particular, independent fact. Is it possible for any mode of conduct to be more unjustifiable, or thoughtless; more calculated to bring shame upon ourselves, and disgrace upon the nation?

The next and last sentence in this paragraph is merely a declaration of the obvious difference between the conditions in the instructions, and those contained in the arrangement, accompanied by a reference, by way of recapitulation to the circumstances alluded to, in the paragraph which has been before considered. As it has been shown that this paragraph did not contain the obnoxious idea, it needs no argument to show it is not contained in this sentence. Indeed, I have not heard it pretended that this is the place of the insult.

I have thus far proceeded by way of a strict analysis of every part of the correspondence, in which the insulting idea, asserted in this resolution, has been said to be conveyed. I have omitted no part, which has been cited in support of this first resolution, and think I have shown that it exists nowhere in the letter of the 23d of October, either in direct assertion, or by way of reference. And it is concerning what is contained in that letter alone, that the resolution under consideration makes assertion. The House will observe that, according to all rules of fair reasoning, it would have been sufficient for me to have limited myself to show the fallacy of the arguments of the advocates of this insult. It being always incumbent on those who assert the existence of anything to prove it. I have not, however, thought my duty on so important an occasion fulfilled, unless I undertook to prove what the lawyers call "a negative," and to show, with as much strength of reasoning as I had, the non-existence of the idea asserted in this resolution; with what success, I cheerfully leave to the decision of such thoughtful men in the nation who will take the trouble to understand the argument. There is, however, a corroborative view of this subject, which ought not to be omitted.

The insulting idea said to be conveyed is, that Mr. Smith had a knowledge, at the time of the arrangement of the incompetency of Erskine's powers, and this because such a knowledge was one of the essential circumstances which could only lead to a disavowal. Now it does happen, that neither Mr. Erskine nor his Government enumerate this knowledge of our Government as one of those essential circumstances. On the contrary, they constantly omit it, when formally enumerating those circumstances. Mr. Canning places the disavowal, solely, on the footing of Mr. Erskine's having "acted not only not in conformity, but in direct contradiction to his instructions." Mr. Jackson, also, in his letter of the 23d, when formally enumerating the causes of the disavowal, says expressly, that the disavowal was "because the agreement was concluded in violation of that gentleman's instructions and altogether without authority to subscribe to the

terms of it." Now is it not most extraordinary that after such formal statements, not including the knowledge of our Government among the essential circumstances, that it is on this knowledge the British Government intend to rely for the justification of their disavowal? I simply ask this question, if the British did intend thus to rely on the previous knowledge of our Government, why do they always omit it in their formal enumerations? And if they do not intend thus to rely, in what possible way could it serve that Government thus darkly to insinuate it? But, as if it were intended to leave this House wholly without excuse in passing this resolution, Mr. Jackson expressly asserts, in this very letter of the 23d of October, that the information of that fact was derived from him, the knowledge of which, this resolution asserts, he intended to intimate was known at the time of the arrangement with Erskine. For he specifically says: "I have had the honor of informing 'you that it (Mr. Erskine's instruction) was the 'only one by which the conditions on which he 'was to conclude were prescribed.'" Now, if Mr. Jackson had remotely intended to intimate that Mr. Smith had a previous knowledge of that fact, would he have asserted that he was indebted to him (Mr. Jackson) for the information? Conclusive as this argument is, there is yet another in reserve, which is a clencher. And that is, that this very knowledge which we propose solemnly to affirm, Mr. Jackson intimated our Government possessed at the time of the arrangement, it is, from the nature of things, impossible they should have possessed. The idea asserted to be intended to be conveyed is, a knowledge in our Government that the arrangement was entered into without competent powers on the part of Mr. Erskine. Now the fact that Mr. Erskine's powers were incompetent, it was impossible for our Government to know, except from the confession of Mr. Erskine. But Mr. Erskine before, at the time, and ever since, has uniformly asserted the reverse. So that, besides all the other absurdities growing out of this resolution, there is this additional, that it accuses Mr. Jackson of the senseless stupidity of insinuating as a fact, a knowledge in our Government, which from the undeniable state of things it is not possible they should have possessed. Mr. Speaker, can any argument be more conclusive? 1. The idea is not conveyed by the form of the expression. 2. Mr. Jackson, though expressly enumerating the only causes which led to a disavowal, does not suggest this. 3. Mr. Jackson expressly asserts that the knowledge that these were the only instructions derived from him, of course it could not have been known previous to the arrangement. 4. Had he been absurd enough to attempt to convey such an idea, the very nature of things shows that it could not exist. I confess I am ignorant by what reasoning the non-existence of an insinuation can be demonstrated, if it be not by this concurrence of arguments.

Before I conclude this part of the subject, it will be necessary to make a single observation or

two, on the following passage in Mr. Jackson's letter of the 4th of November, for although our assertion has relation in the part of the resolution under consideration, only to the letter of the 23d of October, yet this subsequent passage has been adduced as a sort of accessory after the fact. "You will find that, in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and least of all should I think of uttering an insinuation, where I was unable to substantiate a fact. To facts, as I have become acquainted with them, I have scrupulously adhered." This, the subsequent part of the resolution under debate denominates "the repetition of the same intimation." But if the argument I have offered be correct, there was no such "intimation" in the preceding letters, and of course no repetition of it here. For if he had, as I think I have proved, in his former letters uttered no such insinuation as is asserted, then all the allegations in this paragraph are wholly harmless and decorous, neither disrespectful nor improper. "But this," says the gentleman from Pennsylvania, (Mr. MILNOR) "is conclusive to my mind that Mr. Jackson did intend to insult, for if he had not would he have refrained from giving an explanation when it was asked?" That gentleman will recollect that the assertion of this House is as to the idea which Mr. Jackson has conveyed in the letter of the 23d, not as to the idea which he intended to convey. Suppose he intended it, and has not done it, our assertion is still false. But will that gentleman seriously conclude, contrary to so obvious a course of argument, that he has asserted, or even intended to assert, this particular idea, merely because he does not choose to explain it? Are there not a thousand reasons which might have induced Mr. Jackson not to explain, consistent with being perfectly innocent of the intention, originally to convey it? Perhaps he thought that he had already been explicit enough. Perhaps he thought the explanation was asked in terms which did not entitle Mr. Smith to receive it. Perhaps he did not choose to give this satisfaction. Well, that now is "very ungentlemanly," says the gentleman from Pennsylvania, (Mr. MILNOR.) I agree, if he pleases, so it was. But does that justify this resolution? Because he is not a gentleman, shall we assert a falsehood?

I briefly recapitulate the leading points of my argument. When Mr. Jackson asserts "that the substance of the instructions was known to our Government," the expression cannot convey the obnoxious idea, because it is not pretended that, in those instructions, the existence of other powers was excluded. When he says, "you must have thought it unreasonable to complain of disavowal," the time of knowledge implied is confined by the structure of the sentence to the time of a disavowal known, and cannot be limited backwards to the time of arrangement made. It is also absurd to suppose that Mr. Jackson would intimate by implication the knowledge of our Government of Erskine's incompetency of pow-

ers at the time of arrangement, as an essential circumstance on which the King's right of disavowal was founded, and yet omit that circumstance, in a formal enumeration; and lastly, it is still more absurd to suppose that he would undertake to insinuate a knowledge, which, from the nature of things, could not possibly exist.

I have thus, Mr. Speaker, submitted to a strict and minute scrutiny all the parts of this correspondence which have been adduced by any one in support of the fact asserted in this resolution. This course, however irksome, I thought it my duty to adopt, to the end that no exertion of mine might be wanting to prevent this House from passing a resolution, which, in my apprehension, is pregnant with national disgrace, and other innumerable evils.

But let us suppose for one moment that the fact asserted in this resolution is true; that the insult has been offered; and that the proof is not obscure and doubtful, but certain and clear. I ask, is it wise, is it politic, is it manly for a National Legislature to utter on any occasion, particularly against an individual, invectives so full of contumely and bitterness? Shall we gain anything by it? Have such expressions a tendency to strengthen our cause, or add weight and respectability to those who advocate it? In private life do men increase respect, or multiply their friends, by using the language of intemperate abuse? Sudden anger may be an excuse for an individual. Inability to avenge an insult may afford an apology to him for resorting to these women's weapons. But what can excuse a nation for humiliating itself to the use of such vindictive aspersions? Can we plead sudden rage? We on whose wrath thirty suns have gone down? Is this nation prepared to resort for apologies to its weakness, and to confess that, being unable to do anything else, it will strive to envenom its adversary with the tongue? But our honor is assailed. Is this a medicament for its wounds? If not, why engage in such retaliatory insults? Which is best, to leave the British Monarch at liberty to decide upon the conduct of his Minister, without any deduction or sympathy on account of our virulence, or to necessitate him, in measuring out justice, to put your intemperance in the scale against his imprudence? Railing for railing is a fair offset all over the world. And I ask gentlemen to consider, whether it be not an equivalent for a constructive insinuation?

Mr. Speaker, I do not believe that the hand of the Chief Magistrate of this nation is in this thing. In every aspect, this resolution is at war with that wise and temperate ground on which he has placed this insult, in the letter to Mr. Pinkney:

"You are particularly instructed, in making those communications, to do it in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means, the best calculated to establish the relations of the two countries on the solid foundation of justice, of friendship, and of mutual interests."

Is there a man in this House who can lay his

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

hand on his heart and say that, by adopting this resolution, we are about "to unite in all the means 'the best calculated to establish the relations of 'the two countries on the solid foundations of 'justice, friendship, and mutual interest?'" I hesitate not to say, that there is no man who can make such an asseveration.

But, if it would be wise and politic to refrain from uttering this opprobrious resolution, in case the insult was gross, palpable, and undeniable, how much more wise and politic, if this insult be only dubious, and has, at best, but a glimmering existence? But, suppose the assertion contained in this resolution be, as it appears to many minds, and certainly to mine—false; I ask what worse disgrace, what lower depth of infamy can there be, for a nation, than deliberately to assert a falsehood, and to make the falsehood the groundwork of a graduated scale of atrocious aspersions upon the character of a public Minister?

When I say that the assertion contained in this resolution is false, I beg gentlemen distinctly to understand me. I speak only as respects the effects of evidence upon my mind. I pretend not to make my perceptions the standard of those of any other. I know the nature of the human mind, and how imperceptibly, even to ourselves, passion and preconception will throw, as it were, a mist before the intellectual eye, and bend or scatter the rays of evidence before they strike on its vision. On a question of this kind, as I would not trust the casual impressions of others, so I have been equally unwilling to trust my own. I have, therefore, submitted the grounds of my opinion to a rigid analysis. The process and the result of my reasonings I have laid before this House. If that which, to me, appears a palpable falsehood, to others appears a truth, I condemn not them. I can only lament such a diversity on a point, which, in its consequences, may be so important to the peace and character of the country.

But this resolution was devised for the purpose of promoting unanimity. Is there a man in this House who believes it? Did you ever hear, Mr. Speaker, that language of reproach and insult was the signal for conciliation? Did you ever know contending parties made to harmonize in terms of insult, of reproach, and contumely? No, sir. I deprecate this resolution on this very account, that it is much more like the torch of the furies, than like the token of friendship. Accordingly, it has had the effect of enkindling party passions in the House, which had begun, in some degree, to be allayed. It could not possibly be otherwise. A question is raised concerning a constructive insult. Of all topics of dispute, those relative to the meaning of terms, are most likely to beget diversity and obstinacy in opinion. But this is not all. On a question merely relative to the construction of particular expressions, all the great and critical relations of the nation have been discussed. Is it possible to conceive that such a question as this, on which the debate has been thus conducted, could be productive of anything else than discord and contention?

For my own part, I have purposely avoided all reference to any of the great questions which agitate the nation. I should deem myself humiliated to discuss them, under a resolution of this kind, which, in truth, decides nothing, but our opinion of the meaning of Mr. Jackson's language, and our sense of its nature; and has, strictly speaking, nothing to do with any of the national questions which have been drawn into debate.

I declare, therefore, distinctly, that I oppose and vote against this resolution from no one consideration relative to Great Britain or the United States; from none of friendship or animosity to any one man, or any set of men. But simply and solely for this one reason, that, in my conception, the assertion, contained in this resolution, is a falsehood.

But it is said that this resolution must be taken as a "test of patriotism." To this I have but one answer. If patriotism ask me to assert a falsehood, I have no hesitation in telling patriotism—"I am not prepared to make that sacrifice." The duty we owe to our country, is, indeed, among the most solemn and impressive of all obligations. Yet, high as it may be, it is, nevertheless, subordinate to that which we owe to that Being, with whose name and character truth is identified. In this respect, I deem myself acting upon this resolution under a higher responsibility than either to this House or to this people.

Mr. GARDENIER said that he had the honor to represent a portion of this country, that was peculiarly and he might add exclusively interested in an intercourse with the British dominions. It is in the dominions of Great Britain, sir, said he, and in those alone, that they find a market for the products of their honest toil. It is, therefore, that they will not be persuaded to abandon that intercourse, the cause of all their prosperity, the cutting off of which must reduce them to indigence and distress, unless in a case of the most imperious necessity. Gentlemen may talk in this House, and others may talk out of it, as they please, the passions of men may be worked up to any extent that human ingenuity can urge them; but when they have said and done all, the prosperity of the farmers, "of God's chosen people," in the Northern and Eastern States, depends upon this intercourse; without it they must be poor, and revert to that state of indigence in which our glorious Revolution left them. They will not abandon it on light ground; and, therefore, sir, I, as their representative, will not abandon it or see it abandoned but for the most cogent reasons. It is this same people which has been made most deeply to feel the effects of that experimental embargo system which evaporated last Spring. Yes, sir, we have suffered by it—I was about to say we alone—but I will add, all the other inhabitants of the United States, who tilled the earth for the purpose of getting eatables out of it, because it is this species of our produce of which the British dominions stand in need. We shall suffer by it to the end of time, because the ex-

H. of R.

Conduct of the British Minister.

DECEMBER, 1809.

periment made at our expense has taught those who were the consumers of what we raise, the means of doing without it. Yes, sir, we have suffered particularly by this system, and must suffer by every system growing out of the same principle. I beg gentlemen from the South to reflect that their cotton, tobacco, and rice, find a market principally on the Continent, and very much in France; they are not interested in the market in which we are, they have not suffered as we have, because at any rate they could not go to France. France would not let them come, and England would not let them go, and they themselves declared they ought not to go.

The measure which is now proposed for the adoption of this assembly is a visitation which is worse than all the plagues through which we have gone. It is still worse than war itself, nearly the most dreadful calamity that can befall this nation. It is the worst measure that could have entered a head the most fertile in pernicious experiments; and this I shall endeavor to demonstrate. But let me first inquire whether it is the object of this resolution to lead us into a war? Gentlemen say, no; war is not intended to be produced by it. Then, sir, to what end and for purpose is the pledge, contained in the resolution, to be given? We are to pledge ourselves to bring out the whole force of the nation in support of the determination of the Executive; and yet that state of things which can alone call for bringing out this force is not to happen! We are to have no war, say gentlemen, and that in the same breath, in which they say they will bring out the whole force of the United States. Why, then, sir, if it is to be so, if we are indeed to have no war, if it be not looked upon as probable, the whole sinks down to that empty paper gasconade to which I think it high time to put an end. But if it be a prelude to war, as the resolution indicates, and as on the face of it it appears to me to be intended, then let us pause a moment before we plunge our country into the calamities attendant on that state of things! It is easy to get into a war, but it is not so easy to get out of it! And here again, the country which I in part represent is to bear the brunt. If war should come, our defenceless seaports, in which is deposited the portable wealth of the nation, will be the first object of attack, of plunder, and of destruction; and if we are to have war, we must calculate that our enemy will endeavor to make that war as distressing as she can. The subjugation of our country she will never be mad enough to think of attempting. If she could not manage the infant in its cradle, she will hardly attempt to subdue the full-grown giant in his strength. It must be a war of plunder, devastation, and ruin, wherever it reaches. In the inland country, where no force can penetrate, they will only have to bear the burden of excessive taxation to defray the expenses of the war. We are subject not to that alone, but to the loss of those very means which would enable us to bear this taxation. What, in the event of war, would prevent the British from sailing up the Hudson, and from

plundering and laying waste the whole of the fertile country on its banks, and the towns which rejoice to be planted on its shores? Nothing. Yes, sir, you may talk of war; but when that state of things comes, you will have cause to say it required strong considerations indeed to justify you in producing it.

But, sir, this is not all. Remember that when we have war, we must have armies; when we have armies we must have a General; and remember that at the close of the Revolution, a period when there was more purity, more sincere patriotism than can possibly ever be found again—even then you found that there were men who dared to attempt to keep embodied the army which had procured your liberty—and under what pretence? The want of pay. Are you sure that pretence would not again exist? Are you sure that none equally powerful may exist? Are you sure, if an attempt should be made after another war to excite the military to become the rulers of the country, that we should find another WASHINGTON to put down the traitorous parricidal attempt? I know not who may be the General then; but from the present I have little to hope. The school of Burr is not the school of patriot Generals. This Republic, notwithstanding all doubts to the contrary, can, in my opinion, exist to the end of time, unless it be put down by foreign invasion or by a military force collected within its own limits. It is hence that I dread a war; because a war must produce armies; and I am not satisfied that when there are armies we shall be safe, because they may be commanded by Republican Generals. The Republic of Rome was destroyed by a popular General. The leader of the Republic put down the Republic in England, and the great Napoleon had sworn eternal enmity to all Kings!

But I have said that the adoption of this resolution would be worse and more to be dreaded than even a state of war. To war there may be an end. You may conquer, you may compromise, and you may be obliged to yield. Neither of these is as pernicious as what this resolution promises. You are called upon to pass sentence in the face of the world, upon the reputation of a Minister of a great and powerful nation. This is the object of the resolution. I believe my honorable friend from Connecticut (Mr. DANA) who spoke the other day, was not afraid, as was supposed by the gentleman from Virginia, (Mr. EPPES,) that his heart would be overcome by the irresistible charms of this resolution. I believe his paying little attention to its particular features was not owing to that. If it was, sir, his heart has become more susceptible than we have any evidence of its having been heretofore. I confess that I see in the resolution none of those charms that have so forcibly impressed themselves on the affections of the gentleman from Virginia. There is a coarseness of feature and a ruffian dialect, and altogether the style of a bully about it. Things not calculated to fascinate, whatever other impression they may make. It contains a condemnation of the conduct of a foreign Minis-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

ter, an affair, in the first place, with which we have no Constitutional right to interfere, which belongs exclusively to the Executive, and upon which the Executive has not thought proper to intimate that it would be expedient for us to act, in order to aid him; but which we are to take up of our own mere volition, to no useful purpose, but perhaps so as to induce the most disastrous consequences. I shall not on this occasion examine whether the language of Mr. Jackson was insolent, affronting, and so forth; nor whether the dismissal of him by the Executive was proper; because as this subject does not constitutionally belong to the Legislature, I would avoid as long as I could any remarks on it. It is to another point alone that I shall apply my observations. Allowing for the sake of argument—1st, that Mr. Jackson was insolent; 2d, that the President did right in dismissing him—I still contend this resolution ought not to pass; and to bring my ideas more particularly to a point, it is, therefore, that I am desirous that the motion of the gentleman from Massachusetts now under consideration should prevail.

I have forbore to make any remarks on this subject in Committee of the Whole, because I did not wish to excite feelings which can but lead to imprudencies, and because I was well satisfied that the resolutions would be reported by the Committee of the Whole. And upon the whole, sir, I cannot say I am much displeased that the committee did agree to report them; but in reporting them I think they have done all that their own arguments call upon the friends of the Executive to do; and that when we give them legislative form and sanction, no one useful purpose can be answered by it, but much pernicious consequence may be produced. It is said, inasmuch as Mr. Jackson was insolent, inasmuch as Mr. Madison did right in dismissing him, that the President ought to have a knowledge of the sense of the members of the Legislature on these two points, so that he may be certain that the course which he shall pursue to vindicate the national honor, will meet with a proper support in the Legislature. Well, sir—is not the President now convinced of the sentiments of the majority in both Houses? Is he not now satisfied that they think he was right in the manner in which he considered Jackson's conduct, and that he was right in dismissing him? If there were any use (which I do not agree that there is) in the President's knowing what is the opinion of both Houses of Congress on his conduct, he knows it already from what has already taken place. Giving this resolution the sanction of Legislative form cannot, therefore, be for the purpose of making the President feel that he is supported; for, if that be really the purpose, it is answered already. The Administration say Jackson was guilty of a gross insinuation, and they have dismissed him. We come out, and not only echo this sentiment, though in grosser language, but say that we will draw out the whole force of the nation against any one who says differently. I will suppose, for the sake of argument,

that the British Government will entertain the same opinion of Mr. Jackson's conduct that ours has expressed; that they will think his dismissal to have been proper, or, that finding him unacceptable, they would be willing to send another Minister. What will they say when you appeal to them not by argument but by menace—when you are not content with laying before them the conduct of their Minister, and requesting them, by recalling him, to pass the same censure on him which you yourselves are supposed to have done? What will they say, when instead of appealing to the justice or politeness of the British King in the first place, the Legislature tell him, if you do not agree to recall your Minister, here is the whole force of the nation to back our demand. What is this but a threat? They may say, "we should have been willing to yield to your argument, or at any rate to your request; but to your menace we cannot." Sir, you are about to deprive them of the power of yielding to you. I will put a case. Your servant, Mr. Speaker, has injured me; I represent his conduct to you, and say that if you do not punish him I am determined to have satisfaction of you. Your reply would be, that you could not listen to me, lest it should be supposed that you yielded through fear and not from a sense of justice. You would answer, had you appealed to my justice, I had yielded; you have appealed to my fears, and you have appealed in vain. If the object of this resolution be utterly to prevent the possibility of Great Britain and this country agreeing on this matter, no step could be devised in nature more certain of producing this result. Do you know beforehand that Great Britain will stand by her Minister? Is an apprehension entertained of that? Is it then doubtful whether the Minister has done wrong? Or if not, is the Government of Great Britain so profligate that you suppose she will support her Minister when he has done wrong? Grant it. But is this an argument by which you expect to obtain her acquiescence? It is out of the question. By adopting these resolutions, you will have violated the reputation of an Ambassador, no less sacred than his person. To punish him, either in person or reputation, is the prerogative of his Sovereign alone. How then can negotiation hereafter of any kind, or under any circumstances, be renewed between the two Governments? Here is thrown in the way a barrier which must be removed before ever the two nations can speak together again. For, let it be remembered that a Minister going from his own country into the country of strangers has nothing to protect him but his Government, and it is as much the duty of his Government to protect his reputation as his person. If it be true that reputation is more valuable than life, then indeed is his Government more emphatically bound to protect him from assaults upon his reputation than from assaults upon his person. You have violated, says Great Britain, the reputation of my Ambassador; I cannot be safe in sending another to you till you have made a due atonement. Now, if it should so happen that the

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

British Government, not having the same tenderness and delicacy for our dignity which our own citizens may have, but feeling this tenderness and delicacy for (so they will express it) their insulted Minister, should not see this business in the same light in which it strikes us, are they not as much bound to protect the reputation of their Minister, violated by this open and gross denunciation, as if the assault were made upon his person! If they should think him innocent, and as such, that they are bound to support him, what fruits will this resolution produce? In the name of God, sir, are not gentlemen content with the difficulties and embarrassments which already exist? Is there not enough, in the name of Heaven, to keep us apart for years, but is this new and insuperable obstacle to even negotiation to be superadded? Hereafter, when the two nations desire to speak together, this matter must first be disposed of—and how? Are they to submit to this outrage on their Minister? Or are we to make atonement? Neither is to be expected. Why then would you throw this difficulty in the way, which, it strikes me, can never be gotten over? For the purpose of producing what good, I entreat you, sir? To show the world that you are of the same opinion with the Executive in considering the language of Mr. Jackson insolent? Or to show that you will stand by the Executive on the ground which he has taken? Who doubts it? Who doubts the devotion of Congress to the President? To what end then, to what useful end, is the giving legislative form and final sanction to these propositions? For, let it be understood, it is to this I now object specifically. There has not been and cannot be urged an argument which can show that any practical good can result from clothing these propositions in a legislative garb.

In making these remarks to the House, I have carefully studied to avoid making a single remark which would wound the sensibility of gentlemen; because, although it is not my nature to be always so studiously sparing, yet upon this occasion my mind recoils with so much terror and horror from these unprecedented, pernicious resolutions, that I would sacrifice all minor considerations, all the gratification of party feelings, for the purpose of placing before gentlemen a view of the situation in which they are about to place this nation in relation to Great Britain. A situation in which two nations cannot negotiate. A situation unprecedented—unheard-of! We must have war as the only remedy for the passage of this resolution. A war may bury in the same grave with a multitude of our citizens this question about the violation of the ambassadorial character of Mr. Jackson. We may be able then to get clear of it; it may be forgotten, or a remedy be found for it, in the distressing calamities which will succeed, and if this resolution is indeed to pass, I do not know but I should myself be willing to have war in order to bring the two nations to that condition in which they can again speak to each other of their affairs. Sir, I wish to do right; I am impressed with as much grief for the un-

happy condition of our country as any gentleman can profess; I would give a helping hand as cheerfully as any to extract the country from the terrible perplexities with Great Britain in which it is involved, and the more so as my immediate constituents are the victims of them. If this measure is to do good, if any beneficial consequences can result from giving a final sanction to the resolutions, let gentlemen point them out, and I will be as ready to vote against the motion for indefinite postponement as they can be. But even the attempt has not been, and will not and cannot be made. You have already audibly expressed your opinion in Committee of the Whole; the Executive knows it. But, having done this, do not take way all possible chance of the two nations being able to treat hereafter, if hereafter such circumstances should arise as would make the conclusion of a treaty practicable but for this obstacle, which may render even the commencement of a negotiation impracticable—for I am willing to allow that I do not at this time see how a treaty can be attempted. While the present temper exists on the part of the British Government and of our Administration, I do not see that a treaty can be made. Let gentlemen go to war if they will; but let them not bring about that state of things which will prevent the possibility of preserving peace and mutual intercourse by throwing in the way an unnecessary difficulty which cannot possibly produce any good. In this view I shall vote for the present motion; and would to Heaven I had a tongue of fire that might pierce the hearts of gentlemen who hear me with this single question—"What good will this measure produce?" I beg them to consider it most seriously; and in the fair spirit of argument I challenge them to answer me—How are the two nations ever to speak to each other again? To what good purpose is this resolution to lead? If to no good on the one hand; and to so much pernicious result on the other, can they answer it to their country, if they refuse to stop where they are?

Mr. PITKIN said, that he felt a reluctance in addressing the House, at so late an hour; but, viewing, as he did, the resolution proposed, as an improper innovation on the legislative proceedings of Congress; not only so, but as involving a question, which, in all probability, would materially affect the peace, the happiness, and future prosperity of this country, he could not resist the impulse of duty, in endeavoring to arrest its progress by an indefinite postponement.

In the range I may take, said he, in the discussion, it is possible I may also touch upon some of the topics which have been mentioned by those gentlemen who have preceded me, on different sides of the House.

In doing this, I trust, I shall not transgress any of those rules which ought to be observed in all deliberative bodies. I trust I shall deliver my sentiments with firmness, but with a due regard to legislative decorum.

In this late stage of the debate, I hope I shall be pardoned if I should repeat some of the obser-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

vations which have been made by others; it shall be my endeavor, sir, to avoid this as much as possible.

I have stated that, in my view, this is an innovation in the legislative proceedings of Congress highly improper.

As has been said, by several gentlemen, no precedent can be found in the history of our Government for a procedure like the present. A joint resolution, having for its object either to approve or disapprove the conduct of the President of the United States, in relation to foreign nations, or their Ministers, has never yet been adopted by Congress. And yet, sir, have not occasions occurred, under this Government, in which, if such a procedure had been considered proper, it would have been done? Have no difficulties heretofore arisen between the Executive and the agents of foreign nations?

Need I recall the recollection of gentlemen to the celebrated cases of Genet and Yrujo? I should certainly consume the time of the House unnecessarily in making a particular statement of the facts in these cases. It is well known that Genet not only undertook to exercise acts of sovereignty in this country, but even to dictate to the President of the United States what course he ought to pursue in the discharge of his duty. He went further, sir; not being able to shake the firmness of the President, he published what has been emphatically called his "Appeal to the People." What was the course which the then President thought proper to pursue? He informed Congress of the facts by a special Message, on the 5th December, 1793, in which he says:

"It is with extreme concern I have to inform you, that the proceedings of the person whom they (the French Government) have unfortunately appointed their Minister Plenipotentiary here, have breathed nothing of the friendly spirit of the nation which sent him; their tendency, on the contrary, has been to involve us in war abroad, and discord and anarchy at home."

Accompanying this Message was a letter written by the then Secretary of State, to our Minister at Paris, respecting the recall of the offending Minister, in which he says:

"The Government thus insulted and set at defiance by Mr. Genet, committed in its duties and engagements to others, determined still to see in these proceedings, but the character of the individual." Also, "Mr. Genet not content with using our force, whether we will or not, in the military line, against nations with whom we are at peace, undertakes, also, to direct the civil government," &c.

Did Congress, at that time, think proper to pass joint resolutions, approbating the conduct of the President, and reprobating that of the foreign Minister? They did not. And yet, sir, history scarcely furnishes an instance in which a Government was more grossly insulted than ours then was, by the French Minister. The case of Yrujo is of a still later date. Was not the Government then insulted? This Minister came to the seat of Government, and was ordered by the President to depart. He said that he would not go, that he

obeyed no orders, no commands, but those of the King, his master. In both these cases there was no question but that the Executive and the Government had been insulted; and yet Congress, in neither of them, thought it necessary to pledge themselves by a joint resolution, or in any other way, to call out the whole force of the nation to repel such insults.

But, sir, if it is necessary to pass a resolution of this kind, do not let it be couched in language which ill becomes the dignity of Congress and of this nation. If we have really been insulted by a foreign nation, or its Minister, let us tell them so, in a tone firm and proud, but dignified. Let us convince them that we feel for the honor of our country; but let us do it in a language which will show that we are conscious of its worth. This resolution is not for ourselves, but for a foreign nation; and let us not, when acting as legislators, forget that we are gentlemen.

But, sir, the resolution in another point of view has a bearing upon the future prospects of this country, of vast moment. I can consider it in no other light than as a conditional declaration of war against Great Britain. The words of it are: "And the Congress of the United States do hereby solemnly pledge themselves to the American people and to the world, to stand by and support the Executive Government in its refusal to receive any further communications from the said Francis J. Jackson, and to call into action the whole force of the nation, if it should be necessary, in consequence of the conduct of the Executive Government, in this respect, to repel such 'insults,' &c. For what purpose, let me ask, is the force of the nation to be called out? Can it be to repel the insult of Mr. Jackson merely? This, sir, would be too ridiculous. If anything is intended by it, it must be either to declare to the British Government that, in case they sanction the conduct of their Minister, war is inevitable; or, in case Great Britain, in consequence of our proceedings relative to Mr. Jackson, should make war upon us, that the force of the nation is to be called out to defend ourselves. I trust no gentleman will avow that the latter is intended. I do hope that we are not yet so degraded in our own estimation, or in the estimation of the world, as to render it necessary to make a formal declaration that, in case any nation makes war upon us, we will resist.

What, sir, let me ask, is to be our situation, if the British Government should not view the conduct of their Minister in the same point of light as we do? Suppose the British Ministry should say that Mr. Jackson, instead of insulting our Government, has, for the purpose of repelling a charge of a breach of faith on their part, for disavowing the late arrangement, used a language calculated only to support the honor and dignity of his own? Having passed the resolution now on your table, what, let me ask, is to be done? The insult has now become that of the British Government. And, having declared that you will call into action the whole force of the nation to repel such insults, will you not do

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

it? In that event you have no alternative but to go forward or retreat. You must, as the gentleman from Virginia (Mr. EPPES) has said, either run or fight. Does it not, therefore, become us seriously to inquire, whether it is necessary to place ourselves and the nation in that situation? I know, sir, that some of the advocates of this measure do not consider it as wearing this hostile aspect. But, sir, I did not so understand a gentleman from Virginia, (Mr. EPPES.) I understood him to say that we were already in a situation that, according to the laws of honor, we must either run or fight. That the "lie direct" had been given to our Government by Mr. Jackson, and that no other alternative remained. This he undertook to prove by referring to the authority of Shakspeare, who had given a minute account of affairs of honor of this kind among the ancient knights; that, in the correspondence, Mr. Jackson had gone beyond "the retort courteous and the reply valiant," to the "lie direct;" and that, according to the laws of chivalry and the authority of Shakspeare, one party must either run or fight.

Mr. EPPES observed that, in his remarks on that point, he had alluded to the discussion between the Secretary of State and Mr. Jackson, and stated that, after what had passed between the two, nothing was left but either to run or fight. He had expressed no opinion as to the course proper to be taken after the adoption of the resolution.

Mr. PRYOR continued.—I think, sir, I could not misunderstand the gentleman. If his observations had any bearing upon the subject before the House, they went to prove that those notions of honor, to which he alluded, were applicable to nations as well as to individuals; especially as the gentleman has said, that a nation that would not support its honor, even at the expense of forty millions of dollars, did not deserve the name; and that he could not look into the report of the Secretary of the Treasury to determine whether we should defend him or not. But, sir, if this affair is between Mr. Smith and Mr. Jackson, as individuals merely, what have we to do with it? I had thought that the gentleman had considered our national honor to have been wounded, through the Executive, by Mr. Jackson, the British Minister, sent here, as I understood him to say, for the express purpose of insulting us; and that, as a nation, we were in the same situation in relation to Great Britain, as individuals are to each other, between whom had passed not only "the retort courteous, and the reply valiant," but the lie direct; and that nations, like individuals, in that situation, must either run or fight. Yes, sir, according to the ideas of the gentleman, we must have (to use the language of chivalry—and the days of chivalry seem to be fast returning upon us,) a grand national tilting match about an affair of honor; not one in which a few brave knights may break their lances, but one in which every brave man in the nation must be engaged.

But, let me ask, sir, what is to be done with this resolution after it has passed both Houses?

Being a joint resolution it must be presented to the President for his approbation. I see a gentleman, (Mr. EPPES,) by shaking his head, seems to say, no, this is not necessary. Let me call upon that gentleman, and the House, to examine this question, and to examine particularly what the Constitution says in such cases. The words are:

"Every order, resolution, or vote, to which the concurrence of the Senate and the House of Representatives may be necessary, (except on a question of adjournment,) shall be presented to the President of the United States; and, before the same shall take effect, shall be approved by him, or, being disapproved, be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations, as in the case of bills."

Is not this, sir, a resolution in which the concurrence of the Senate and House is necessary? Has it not here, as well as there, gone through all the forms required in the case of bills? The Constitution is clear and explicit on the subject. I would ask gentlemen to point out a single instance when a joint resolution has not been presented to the President for his signature and approbation; although they have been complimentary to those officers and men who have distinguished themselves in the service of their country. I might here refer the House to the joint resolution approving the conduct of the gallant Truxtun and his officers, sailors, and marines, on board the frigate *Constellation*, in 1798; to a similar resolution in honor of the conduct and intrepidity of Commodore Preble, and the officers, seamen, and marines, before Tripoli. These, sir, as well as others, were presented to the President and received his approbation. I will agree, sir, that, as to that part of the resolution which goes to approve of his conduct in relation to Mr. Jackson, we place the President in rather a delicate, and, indeed, awkward situation, when we request him to sign an act commending himself; not only so, sir, but as the resolution is at present worded, we place him in rather a laughable situation when we request him not merely to approve of his own good conduct, but to declare to the world that he will "stand by and support" himself in doing well. And if he does not sign the resolution, but returns it for our reconsideration, he will then virtually say that he will not "stand by" himself. In the latter case, we might, perhaps, give ourselves very little trouble about repassing it, as we might justly say, if the President will not "stand by" himself, he cannot expect that we shall stand by him.

But, sir, it is unnecessary as well as improper to place the President of the United States in this situation. If it is the wish of both Houses of Congress to compliment him on this occasion, to return him their thanks for his good conduct, let them do it, by a joint address, in the true Parliamentary style. This address, according to the established rules, is to be presented to him in the presence of both Houses, and will not require his signature of approbation.

But, sir, so far as this resolution is a pledge of

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

the constituted authorities to call into action the whole force of the nation, ought it not to be presented to the President for his approbation? Can you actually call out the force of the nation, by any joint resolution you may pass, without submitting the subject to the consideration of the President? You cannot, sir. Neither can you give any Constitutional pledge to this effect, without taking the same course. In what situation, then, will this resolution place the President, in respect to the course he has thought proper to pursue, in relation to the British Government? Sir, you compel him at once to change the state of the relations between the two countries. And, let me ask, whether, in this way, you do not in fact violate the Constitution, which has intrusted the Executive alone with the power of conducting negotiations of every kind between this country and foreign nations? In respect to the conduct of Mr. Jackson, has not the President assumed a tone and language totally different from that of this resolution? Has he not, sir, pursued the course pointed out, in a similar case, by the immortal WASHINGTON, and which has been pursued by his successor? And yet we are now about to tell him that this is an improper course, that he ought to have assumed a higher tone; to have threatened the British Government "with calling into action the whole force of the nation" against them if they should sanction the conduct of their Minister.

I need only advert to the Message of the President, and the letter of the Secretary of State, to our Minister at London, to prove that the language of the Executive and that of the resolution are at war with each other. The language of the Message is:

"And it would indicate a want of confidence due to a Government, which so well understands and exacts what becomes foreign Ministers near it, not to infer that the misconduct of its own representative will be viewed in the same light in which it has been regarded here. The British Government will learn, at the same time, that a ready attention will be given to communications through any channel which may be substituted."

The Secretary of State, also, says:

"You are particularly requested, at the same time, in making these communications, to do it in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means best calculated to establish the relations of the two countries on the solid foundation of justice, of friendship, and of mutual interest."

Such, sir, is the language of the President, and unless gentlemen are determined upon a war, even before they have heard "in what light the conduct of their representative is viewed by the British Government," unless they are determined to place the dearest interests of this country at hazard, unless they intend to close the door which the President has left open "against any further communications" from them; why will they be induced to vote for the present resolution?

Sir, I want no more resolution and proclamation wars. This nation is sick of them, and for-

sign nations view them with contempt. If one of the old-fashioned wars is intended, in any event, let gentlemen prepare the means for it; let them replenish their arsenals with arms and ammunition of every kind; let them raise armies, build navies, and negotiate loans.

But, sir, before we make any direct or conditional declaration of war against Great Britain, let us wait until we learn, through the Constitutional organ, in what light the conduct of Mr. Jackson is viewed by his Government; let us wait until we are informed by the President whether any other channel of communication between the two countries is substituted or not? It will then be time enough for us to take a decisive step. We may then be called upon as legislators to exercise the high power with which the Constitution has invested us, in relation to war. But, until we come to this point, to me, sir, it is clear that we ought not to interfere, as legislators, in the manner proposed by this resolution. And I cannot but express my fears that, in passing it, we shall not only compromise the best interests of this country, but establish a precedent which may hereafter be brought into action, with, perhaps, far other views and motives than those which now actuate the majority of this House.

But, sir, although no precedent can be found for this measure, in the history of our own Government, yet, it has been said to be conformable to the proceedings relative to De Palm in the Parliament of Great Britain. I beg leave to state that case to the House. In January, 1726-'7, the King, in his speech to Parliament, speaking, among other things, of a secret treaty which had then lately been made between Spain and Austria, said:

"I have received information from different parts, on which I can entirely depend, that the placing the Pretender upon the throne of this Kingdom is one of the articles of the secret engagement; and that if time shall evince that the giving up the trade of this nation to one Power, and Gibraltar and Port Mahon to another, is made the price of imposing upon this Kingdom a Popish Pretender, what an indignation must this raise in the breast of every Protestant Briton."

This speech gave great offence to both the Courts of Austria and Spain, and Monsieur de Palm, then Imperial Resident at the Court of London, had express orders from the Emperor, as appears by a letter to him, from Chancellor Zinzendorf, which I now hold in my hand, to present to the King a memorial, expressly denying the statements he had made from the throne. The memorial begins thus:

"Most Serene and Potent King: As soon as the speech, made by your Majesty to the Parliament of Great Britain now assembled, came to the knowledge of his Imperial and Catholic Majesty, my most gracious master, he was struck with the utmost astonishment, that your Majesty could suffer yourself to be prevailed upon to declare, from the royal throne, to that most renowned nation, in a manner hitherto unheard of, as certain and undoubted facts, several things, some of which are strained, in that speech, to a wrong sense; some are entirely distant from the intention of His Im-

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

perial and Catholic Majesty; and, lastly, (which affect much more sensibly than all the rest,) some things absolutely void of all foundation."

The memorial then proceeds to state, that the assertions contained in the speech relative "to the secret articles in favor of the Pretender, are entirely unsupported by truth." De Palm had, also, express orders to cause this memorial to be printed, and circulated through the Kingdom, and which was immediately done. This, then, was not the mere act of the Imperial Minister—it was the act of the Emperor himself, and as such was viewed by the British Parliament. Can gentlemen see no difference between that case and the present, in this respect? That was a direct charge of the most wilful falsehood, made by one nation against another, in the face of the world; the present, to make the most of it, a mere insinuation of the kind, made by a foreign Minister, against a Secretary of State, in their correspondence.

The British Parliament, in the case alluded to, indignant at the manifest insult and outrage offered to their King and to the nation, presented a joint address to him, giving him assurances that they would "defend and support him against all his open and secret enemies, both at home and abroad."

In stating this case it is impossible, sir, not to call to our recollection the history of those times, and the then political situation of Great Britain.

The house of Hanover, to the exclusion of the ancient and tyrannical house of Stuart, had then but lately, by the voice of the nation, succeeded to the Crown.

This alteration of the succession, it is well known, lighted up a flame, not only in England, but in Europe, which lasted more than half a century. The pretensions of the house of Stuart to the British throne, were abetted, not only by the Scotch and the Roman Catholics in England, but, either openly or secretly, by most, if not all, the Roman Catholic countries in Europe. But a few years before this, a rebellion in favor of the Pretender, aided by foreign influence, had broken out, in the heart of the kingdom, which had nearly shaken the house of Hanover from the throne.

Under these circumstances, and in this situation, the Parliament very justly viewed with indignation every attempt of foreign nations to reinstate upon the throne a family, which the nation, but a few years before, had expelled from it. It was this extraordinary occasion which produced the joint address from Parliament, which has been mentioned, and in which they engaged to support and defend the King, in opposition to a family under whose oppression and tyrannical acts, the nation, not long before, had so severely suffered. The Imperial Minister was immediately sent out of the kingdom, and the proceedings of the Emperor were considered as amounting to a declaration of war. Both parties, therefore, as the historians of those times inform us, prepared for war. They increased their armies and navies, and Great Britain immediately took into pay

thirty thousand Danish, Swedish, and Hessian troops; Gibraltar itself was besieged by the Spaniards within one month from the time of this transaction.

Such, sir, was the case of De Palm, which I have heard so often mentioned, as precisely similar to that of Mr. Jackson. If I am unable to perceive that similarity so as to justify the measure now before us, I presume it may be owing to my want of that acuteness of perception which others seem to possess.

These are some of the reasons which will induce me to vote for the postponement of the resolution.

While a negotiation with a foreign Government is pending, I do not wish to be called upon to give a vote, either to applaud or condemn the conduct of the Executive in relation to it. I would do nothing, sir, which could embarrass the President in any negotiation, or in any intercourse between this country and foreign nations. And, although I might be of opinion that the course which the Executive had thought proper to pursue, was not, in all respects, the wisest and the best, yet, sir, I would be cautious of expressing that opinion on this floor, until the business was brought to a close. While, therefore, the door for an accommodation of our differences with Great Britain is left open by the Executive, I would take no step that might shut it.

But, if I must be compelled to give that opinion, if by pressing the resolution to a final decision, I am called upon to give a vote, I must give it as my best judgment shall dictate.

I shall not, Mr. Speaker, detain you and the House long in entering into the details of the correspondence between Mr. Smith and Mr. Jackson. This correspondence has been so largely commented upon, and with so much ability, by those who have preceded me in opposition to the resolution, as to render it unnecessary. The nature of the alleged offence, on the part of Mr. Jackson, is stated by the Secretary of State in his letter to Mr. Pinkney of November 23. Mr. Smith there states:

"It was never objected to him (Mr. Jackson) that he had stated it as a fact that the three propositions in question had been submitted to me by Mr. Erskine, nor that he stated it as made known to him by the instructions of Mr. Canning, that the instruction to Mr. Erskine, containing those three conditions, was the only one from which his authority was derived to conclude an arrangement on the matter to which it related. The objection was, that a knowledge of this restriction of the authority of Mr. Erskine was imputed to this Government, and the repetition of the imputation even after it had been peremptorily disclaimed."

From an attentive examination of the documents, I have been unable to find that Mr. Jackson has anywhere stated that "this restriction of the authority of Mr. Erskine" was known to our Government at the time of the arrangement. He states it, to be sure, as a fact, that the despatch of the 23d of January was the only one by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement. He also states

DECEMBER 1809.

Conduct of the British Minister.

H. OF R.

what he considers Mr. Smith as admitting, that the instructions contained in it were, in substance, made known to our Government by Mr. Erskine. These premises being admitted, Mr. Smith was, in fact, acquainted, at the time of the arrangement, with the only instructions which Mr. Erskine had. For if, in truth, there were no other instructions or authority than those contained in that despatch, and Mr. Smith was made acquainted with the substance of those instructions, Mr. Jackson's assertion, that Mr. Smith had a knowledge of the only instructions or authority which Mr. Erskine had, even supposing it refers to the time when the arrangement was made, was a verity.

But, sir, does it follow from this that Mr. Smith at that time knew that Mr. Erskine had no other instructions, or that his authority was restricted to the conditions contained in that despatch? It does not. Mr. Jackson has not said that Mr. Smith had such knowledge, neither do I perceive that it is necessarily implied from anything he has said. In his letter of October 23d, (in which are said to be the offensive expressions,) he says:

"I have, therefore, no hesitation in informing you that His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand by the letter, as well as by the obvious deduction which I took the liberty of making in mine of the 11th inst., were at that time, in substance, made known to you."

To what instructions does Mr. Jackson here refer? Evidently to those contained in the despatch of January 23d; for he had before declared, in the most solemn manner, that the despatch contained the only instructions and the only authority which Mr. Erskine had to conclude an arrangement on the subject to which it related. And when, in his last letter, he says that he had "avoided drawing conclusions that did not necessarily follow from the premises advanced," &c., is it to be inferred that one of the conclusions was, that, at the time of the arrangement our Government had a knowledge of the restriction of the authority of Mr. Erskine? Certainly not; because such a conclusion does not necessarily follow from the premises advanced. If then, sir, by a fair construction of the language and expressions used by Mr. Jackson, this insult is not to be found, I can never consent to give my vote for the resolution.

In making these observations, I am not the advocate of Mr. Jackson, or of the British Government; nor have I condescended, nor will I ever condescend to be the flatterer of the present or of any other Executive of my own country. I cannot but regret that, in the correspondence between Mr. Smith and Mr. Jackson, there appears to be a mutual distrust of each other's sincerity, and that the language of both is far from being conciliatory. But, sir, I can see nothing in it which will warrant me in calling out the whole force

of the nation, or in giving a pledge to that effect. I cannot consent to put the dearest interests of this country at hazard, because a Secretary of State has supposed that he has been insulted, by implication, by a foreign Minister. If, sir, I could believe, what some gentlemen have stated as their belief, that Mr. Jackson has not only insulted our Government, but that he came here with no other view, and that he had orders from his Government to do it, I would be willing to say directly, that we must have war or satisfaction.

But, sir, the President himself does not view this insult, whatever it may be, as coming from the British Government; if he had so viewed it, he never could have told them that a "ready attention would be given to communications, through any channel that might be substituted."

There is, sir, another important inquiry, which has been presented for our consideration; an inquiry in which the people of this nation have the deepest interest. It has been asked, and will often be hereafter asked, How has this quarrel originated? How has it happened, that a dispute has arisen between Mr. Jackson and Mr. Smith? Whether the latter had or had not a knowledge of the restriction of the authority of Mr. Erskine in his late arrangement with this Government? Was it of no importance to the Secretary of State in making this arrangement, to know the extent of Mr. Erskine's authority? Was it a matter of indifference with him, whether Mr. Erskine had authority to bind his Government to rescind the Orders in Council, on the single condition of our suspending the non-intercourse law, as it respects Great Britain, or on other and further conditions? And, if it was important, had or had he not a right to require of Mr. Erskine the production of his authority, before he concluded the arrangement? The principles of public law or the law of nations have been clearly stated and proved by my colleague, (Mr. DANA.) These principles, I understand to be, that the Secretary of State had a right to require of Mr. Erskine the production of his power or authority, before he concluded any arrangement with him; and that, as by the arrangement, the conditions on our part were to be immediately carried into execution, it was peculiarly his duty so to do. If this, sir, had been done, this unfortunate dispute, a dispute which, it seems, is now threatening to involve this country in a war, would never have arisen.

Much has been said about the diplomatic papers with which Ministers are usually furnished, viz: Letters of credence, full powers, and instructions. It is of importance that we should distinctly ascertain the nature and object of these several papers and the different uses which are to be made of them.

The gentleman from Virginia (Mr. EPPES) has more than intimated, that a Minister, by virtue of his simple letter of credence, has power to make a treaty, or to enter into stipulations which will be binding on his Government; and, to prove this, has quoted the words, which are usually inserted in all the diplomatic papers of this kind, requesting the Government to whom the Minister is

sent, "to give full credit to all he shall say to them, on the part of his Government."

Simple letters of credence, sir, give no power to the Minister, who is the bearer of them, to enter into any stipulations which shall bind his Government. The general expressions which are used in diplomatic papers of this description, and to which allusion has been made, are words of form, and, by the general usage and custom of nations, have never been construed to refer to anything more than the ordinary business of a Minister or Envoy at a foreign Court. Permit me to illustrate this idea: Suppose, Mr. Erskine, who at the time was an accredited Minister near this Government, had, immediately after the attack on the Chesapeake, and before he had heard from his Government on the subject, undertaken, by virtue of the powers, contained in his simple letter of credence, to stipulate what reparation and satisfaction should be made to us, on the part of Great Britain, for this outrage upon our national sovereignty. Would such a stipulation have been, in any manner whatever, binding on his Government? It cannot be pretended. Suppose, also, that, immediately after laying the embargo, he had without any other authority, entered into an agreement or arrangement with the Executive, that, on the repeal of our embargo acts, the King should rescind his Orders in Council. Would the King of England have been under any obligation to comply with the terms of such an arrangement? Certainly not. But, sir, further to prove the correctness of this doctrine, let me refer gentlemen to another case, under our own Government, in addition to those which have been mentioned by my colleague. It is well known that great difficulties arose in the execution of the sixth article of Mr. Jay's Treaty. To remove these difficulties, a convention was entered into between Lord Hawkesbury and Mr. King, on the part of the two Governments, at London, in 1802. In the convention itself, Mr. King describes his power of authority in the following words:

"And the President of the United States, by and with the advice and consent of the Senate thereof, has named for their Plenipotentiary Rufus King, Esquire, Minister Plenipotentiary of the said United States to His Britannic Majesty, who have agreed to," &c.

And the Plenipotentiaries, at the conclusion of the convention, say, that they sign the same, "by virtue of their respective full powers." Now, sir, notwithstanding Mr. King, by virtue of his general letter of credence, was at that time a Minister Plenipotentiary at the Court of Great Britain, it was thought necessary to invest him with special Plenipotentiary powers, in order to enable him to settle the disputes which had arisen under a former treaty. This proceeding was undoubtedly considered as conformable to the usage and custom of nations in similar cases. To prove that it was so, as well as to prove that the Secretary of State had a right to require the production of Mr. Erskine's authority, I beg leave to refer the House to one or two writers on this subject; wishing them to keep in view the important dis-

tinction between the powers or authority of a Minister and his instructions, as separate from his authority. For although the powers or authority of a Minister may be called for, and must be produced, if required; yet, his instructions, as separate from his authority, can never be called for or required of him. One of the writers to whom I allude, viz: *Wicquefort*, and who has written expressly on the functions and duties of Ambassadors, has been cited by the gentleman from Virginia. He has described him as an old authority. I would observe, however, that his writings are much less ancient than those of *Grotius*, who has been justly styled the father of public law. Having been unable to find this work in English, I shall be compelled to give the House an imperfect translation of it from the French—gentlemen, however, will be able to correct me, if I should mistranslate:

"Power or authority (*la pouvoir*) says *Wicquefort*, is essentially necessary for an Ambassador, when he would make or conclude a treaty, or negotiate any particular and important affair, in the execution of which both parties are interested in having assurances." Liv. I. sec. 16.

After stating particular cases, he then proceeds to say:

"And I would add, that powers are not so necessary to the Ministers, who are the bearers of them, as they are to the Commissioners or Ambassadors who treat with them, and to whom it is important to be assured that, whatever they shall negotiate and treat upon with Plenipotentiaries, will be agreed to and ratified."

To prove this, he also refers to a particular case, which I shall ask permission to read:

"It is very certain (says he) that the power or authority is at least as necessary for him who treats with a Minister, as to the Minister himself, as appears from the following case: 'The invasion with which Philip the Hardy, King of France, threatened the kingdom of Arragon, in the year 1285, obliged King Peter the Great to send to Sancho the Brave, King of Castile, a gentleman by the name of Pierre de Bolea, to induce him to enter into his interests. This gentleman, who had no other power than a simple letter of credence, found himself very much embarrassed, seeing that the King of Castile was very little disposed to act for the interest of the King of Arragon. So that, fearing he would even declare for France, he told him, that if he would only remain neuter, the King of Arragon would give him the city of Calatayua after the war should be finished. Sancho remained neuter, and, seeing that Peter had made an advantageous treaty with France, he demands of him the city which Bolea had promised him. The King of Arragon said, that the gentleman whom he had sent to him had neither order nor power (*ni ordre ni pouvoir*) to promise him anything; but, not to fail in what he owed to a King, whose friendship had been so dear to him, he sent to him the gentleman himself, to dispose of him according to his will. Bolea confessed to the King of Castile that he had no order to offer him anything; but that the great affection he had for the King his master, had induced him to make the advances he did, for the purpose of averting those dangers which the junction of the forces of France and Castile would render inevitable. The King of Castile praised his zeal and sent him back to his master.'

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

The writer immediately adds:

"He (the King of Castile) ought to accuse himself for having too lightly trusted to the saying of a Minister, who, in the regulation of his employment, did not fear to mix a little artifice with his probity. The King of Castile ought to have had this promise made in writing, and, before accepting it, he ought also to have had given him an authentic copy of the power in virtue of which it was made."

This case proves, sir, that simple letters of credence give no authority to a Minister to enter into any special stipulations to bind his Government. And we also have the authority of this writer that the Government to whom any promise or engagement is made by a Minister who may have a letter of credence, has a right to require that not only the promise or engagement should be in writing, but, before accepting it, that an authentic copy of the power, in virtue of which it is made, should also be given to them.

The gentleman from Virginia, however, to prove the contrary, has cited the following passage from *Wicquefort*:

"The Ambassador, after he has presented his letters of credence, and had them approved, ought to enjoy the effect thereof purely and simply, and has no further occasion to fortify or authorize his negotiation by producing other instruments."

This quotation, sir, is but a part of a sentence, the whole of which must be taken together, in order to understand the meaning of the author. *Wicquefort* has just before been speaking of the conduct of the States General toward Walter Strickland, in demanding his instructions, and which he very justly condemns; he then adds:

"What I have just said respecting the treatment which Walter Strickland received at the Hague is founded on the law of nations; because an Ambassador, after he has presented his letters of credence, and had them approved, ought to enjoy the effect thereof purely and simply, and has no further occasion to fortify his character or authorize his negotiation, by producing other instruments, unless that he be either requested, or that he himself requests, to make a particular treaty, for which he must necessarily have a special power. It is this, of which I shall speak, after having said a word on the subject of letters of credence in the following section."

This, sir, is the whole of the sentence, and is the conclusion of a section on the subject of the instructions of a Minister; and, taken together, proves, beyond a doubt, that a letter of credence is insufficient to enable a Resident Minister or Plenipotentiary to make a particular treaty, but that a special power is necessary for the purpose. And, let it not be supposed that, by the word "treaty" here used, nothing more is intended than an agreement, which is technically so called, and which is of the highest character, and is the most solemn compact between nations. For, in the subsequent section, part of which I have before quoted, *Wicquefort* says, this power is necessary not only for the purpose of "concluding a treaty, but of negotiating any particular and important affair, (*une affaire particuliere et importante*), to be assured of the execution of which both parties have an interest."

The power or authority with which a Minister must be clothed, in order to enable him to enter into any stipulations which shall bind his Government may be, either what, in a strictly legal sense, is called a full power, and without any limitation, and which is under the great seal of the State; or, it is a more limited and restricted authority, and is not attended with such high evidence of authenticity. But, in either case, the power or authority must be produced if required. When this authority is given to a Resident Minister or Plenipotentiary, and is limited to a particular transaction, it may be, and sometimes is, coupled with his instructions; and more especially is this the case when the terms by which alone he is authorized to negotiate, are prescribed to him in the instrument giving the authority. This limited power is not, then, what, in the usual style of writers on public law, is called a full or patent power, under the great seal of the State; but is still such an authority, as, if required, must be produced. And, when this authority is not produced, if required, it is optional with the party thus requiring it, whether he proceeds in the negotiation or not. If he does proceed, trusting solely to the word of the Minister that he has authority (as was the case with the King of Castile before quoted) to make the stipulations which he proposes, he proceeds at his own risk, and can never complain, if the Government should disown an agreement entered into by its agent without authority, or, contrary to his authority. The British Ministry, aware that the Government of the United States had a right to call for the authority of Mr. Erskine, to bind the King to rescind the Orders in Council, gave him liberty to show the despatch of the 23d of January, *in extenso*; which despatch not only contained his authority, but also his instructions or the precise conditions to be performed on our part before the authority could be exercised.

That a Government is not bound to ratify an agreement made by its Minister, without authority, or contrary to his authority, is one of the plainest maxims of common law. This maxim was taken from the old Roman law, that the acts of an agent or proxy were not binding on his principal, unless done in pursuance of the power or authority given him by his principal. This, sir, is a maxim about which writers on public law have never differed. And I will venture to assert that, from the time of the memorable agreement entered into, without authority, between the Roman Consuls and the Samnites, and which was disavowed by the Roman people, down to the present moment, this principle has never been questioned.

It is intimated, however, sir, in the President's Message, and the same intimation has been made on this floor, that "a disavowal of engagements formed by diplomatic functionaries," cannot be made consistently with good faith, unless, "in cases where, by the terms of the engagements, a mutual ratification is reserved; or where notice at the time may have been given of a departure from instructions; or, in extraordinary

'cases, essentially violating the principles of 'equity." I must be permitted to say, that my opinions of the law of nations, on this subject, are totally different from the intimations here given. I have always understood the public law on this subject to be, that "agreements formed by diplomatic functionaries," might be disavowed in cases where they had departed from their secret instructions, although no notice of such departure was given at the time, and that, by the modern usage of nations, engagements, although formed by public Ministers in strict conformity with their powers and instructions, are not considered as obligatory on their respective Governments, until ratified by them, although "by the terms of the engagements, a mutual ratification is not reserved."

If the House will indulge me, sir, I will prove, by well established authorities, that my opinion is correct. Vattel, in his celebrated work on the law of nations, and which is a sort of text book on this subject, in book four, chapter six, concerning public Ministers, says: "By a well grounded custom any engagements, which the Minister should enter into, are at present of no force among sovereigns, unless ratified by his principal."

Martens lays down the same principles, and to these let me add the authority of a French writer, Monsieur Piquet; who, although not so much known as the former, Vattel himself has quoted, and has called a wise and virtuous politician—this author, (in a little treatise, entitled *Discours sur l'art de Négocier*) says "although the powers which authorize a Minister to treat appear to be unlimited,) yet they are always in fact limited by the instructions, which accompany them, and this limitation is of such rigor, that the Minister cannot be too scrupulous an observer of them. He ought in effect, in matters of so great importance, to avoid, as much as possible, taking anything upon himself, either as to the terms of his engagements, or as to their extent. The inconveniences of this are too evident to render it necessary to detail them. He who passes the limits which are prescribed to him, not only deceives his master, but does a great injury (*rend un mauvais service*) to the Prince with whom he treats, because it always depends on the master to ratify or not an engagement formed by a Minister, who acts contrary to his instruction."

These, sir, are the principles of national law on this subject. Acting in conformity with these principles, the late Administration refused to ratify a convention entered into between our Minister, Mr. King, and the British Government, relative to our Northeastern boundary; although this convention was formed in pursuance of powers and instructions given to Mr. King, by our Government. Upon the same principles the late President refused to ratify the treaty of Messrs. Monroe and Pinkney; and on the same ground, no treaty or convention in this country is obligatory, or considered as the law of the land, until ratified by the President and Senate, and promulgated by proclamation.

It is said, however, sir, that these principles are only applicable to treaties strictly so called, on ac-

count of their great magnitude, and of their permanent character. To this I shall only oppose the opinion of Vattel, who (in book II. chapter 14) says: "All we have said of the validity of treaties, of their execution, of dissolving them, and of the obligations and rights that flow from them, are applicable to the various conventions which sovereigns may conclude with each other. Treaties, conventions, and agreements, are all public engagements, in regard to which there is but one and the same right, and the same rules." It seems, sir, that in the late arrangement the Secretary of State trusted to the word, nay, even to the belief of Mr. Erskine, that he had sufficient authority to conclude it. In his letter to Mr. Jackson of October 19th, page forty-six, of the printed documents, he says: "That he (Mr. Erskine) had, or at least that he believed he had sufficient authority to conclude the arrangement, his formal assurances, during our discussions, were such as to leave no room to doubt."

If, sir, instead of trusting to formal assurances of this kind, the Secretary of State had, agreeable to diplomatic usage, called for this authority, that he might himself judge of its sufficiency, we should not now be required to pass the resolution before us; we should not now be plunged into difficulties, from which nothing short of a miracle can extricate us with honor.

With these observations, I shall dismiss this part of the subject; claiming, however, the indulgence of the House, for a few moments longer, while I advert to some other parts of the papers and correspondence before us.

As to the terms and conditions, which were offered us in the despatch of Mr. Erskine of January 23d, on the part of the British Government, I have no hesitation in saying that they were such, especially the second and third, as ought not and could not have been agreed to on the part of our Government. And no justification or apology for the British Ministry in proposing them, can be made, but the one which they themselves have stated, a supposition or belief, that they came from members of our Government, and that, therefore, they would meet with the approbation of the present Administration. This supposition or belief, originated it seems in what Mr. Smith, in his letter of November 23d to Mr. Pinkney, calls a double mistake. Let us, sir, examine the subject. As to the second condition, which goes to renounce the colonial trade altogether, this had its origin in a conversation between Mr. Erskine and Mr. Gallatin, previous to the 3d of September, 1808. This conversation was reported to the British Ministry by Mr. Erskine, and is detailed in his letter of the 14th of August last, to Mr. Smith, in answer to one requiring explanations on the subject of the conditions contained in the despatch of January 28th. In this letter of the 14th of August, Mr. Erskine proceeds to give "an abstract of the communications" which he made to his Government "relative to unofficial conversations" which he held with Mr. Madison, Mr. Gallatin, and Mr. Smith, and which were alluded to by Mr. Canning.

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

Speaking of the conversations with Mr. Gallatin, he says:

"He (Mr. G.) adverted also to the probability of an adjustment of another important point in dispute between the two countries, as he said he knew that it was intended by the United States to abandon the attempt to carry on a trade with the colonies of belligerents in time of war, which was not allowed in time of peace, and to trust to the being permitted by the French to carry on such trade in peace so as to entitle them to a continuance of it in time of war."

Here, sir, Mr. Erskine stated to his Government, not the mere *opinion*, but the *knowledge*, of one of the members of the Administration, that the United States intended to abandon the colonial trade altogether. It is true, that in the same letter to Mr. Smith, he adds: "as it may be very material to ascertain what 'trade with the colonies of belligerents' was, in my conception, meant, by Mr. Gallatin, as intended to be abandoned by the United States, I feel no hesitation in declaring that I suppose he alluded to the 'trade from the colonies of belligerents direct to their mother country, or to the ports of other 'belligerents' &c. It does not appear, however, that Mr. Erskine informed Mr. Canning, what his conceptions were, as to what Mr. Gallatin meant by the colonial trade; but, by the expressions which he uses, it appears very plainly that he did not, and that he was merely explaining his conceptions to Mr. Smith.

All doubt, however, must be removed on this point, by attending to Mr. Pinkney's letter to the Secretary of State, dated May 28th, 1809, where, speaking of the interview he had with Mr. Canning, he says that Mr. C. informed him that the instructions sent to Mr. Erskine were "founded 'on his own letters received in January last, in 'which were set forth the particulars of several 'conversations that had passed between him and 'Mr. Madison, Mr. Gallatin,' &c. Mr. Canning then stated to him (Mr. Pinkney says) the substance of Mr. Erskine's letters relative to the concessions to be made by our Government, and among the rest, "that it would even agree to abandon, during the present war, all trade with enemies' colonies, from which we were excluded in peace." And Mr. Pinkney says, that Mr. Canning read to him passages in Mr. Erskine's letters in December last, which contained the above representation among others. And Mr. Pinkney also says, in his letter to the Secretary of State of June 23d, that "Mr. Canning (in a conversation 'with him) admitted that the second condition, 'viz: the colonial trade, had no necessary connexion with the Orders in Council; and he intimated that they would have been content to leave the subject of it to future discussion and arrangement." He added, that "this condition 'was inserted in Mr. Erskine's instructions, because it had appeared from his own report of conversations with official persons at Washington, that there would be no difficulty in agreeing 'to it."

As to the third condition, Mr. Canning states, in his despatch to Mr. Erskine, that this was sug-

gested in consequence of "an opinion expressed 'to him by Mr. Pinkney, that there would be 'no indisposition on the part of his Government 'to the enforcement by the naval power of 'Great Britain of the regulations of America, 'with respect to France and the countries to 'which those regulations continue to apply, but 'that his Government was itself aware, that without such enforcement those regulations must be 'altogether nugatory." What, sir, does Mr. Pinkney himself say on this subject? In a "*Brief account of an unofficial conversation between Mr. Canning and Mr. Pinkney, on the 18th and 22d of January, 1809,*" sent to this House by the President, Mr. Pinkney says:

"In the course of the conversation, Mr. Canning proposed several questions relative to our late proposal; the principal were the two following: 1st. In case they should wish either through me, or through Mr. Erskine, to meet us upon the basis of our late overture, in what way was the effectual operation of our embargo as to France, &c., after it should be taken off as to Great Britain, to be secured? It was evident, he said, that if we should do no more than refuse clearances for the ports of France, &c., or prohibit, under penalties, voyages to such ports, the effect which my letter of the 23d of August, and the published instructions proposed to have in view, would not be produced; for that vessels, although cleared for British ports, might, when once out, go to France instead of coming here, that this would in fact be so, (whatever the penalties which the American laws might denounce against offenders might be) could not, he imagined, be doubted; and he therefore presumed, that the Government of the United States would not, after it had declared a commerce with France, &c., illegal, and its citizens, who should engage in it, delinquents, and after having given to Great Britain, by compact, an interest in the strict observation of the prohibition, complain if the naval force of this country should assist in preventing such a commerce."

It may not be improper here to inquire, what was the late proposal and overture to which Mr. Canning alluded, and what effect did Mr. Pinkney's letter of the 23d of August, and the published instructions, propose to have in view. The proposal referred to was the offer made on the part of our Government, in 1808, to suspend the embargo as to Great Britain, on the revocation of the Orders in Council, and to continue it as to France; the effect which was to follow from this was then stated to Mr. Canning by Mr. Pinkney, in August, 1808, to be, that a revocation of those orders would, if not attended or followed by a revocation of the decrees of France, place us at issue with that Power, and result in a precise opposition by the United States, to such parts of her anti-commercial edicts as it became us to repel. Mr. Canning asked Mr. Pinkney how the effectual operation of the embargo, as to France, after it should be taken off as to Great Britain, was to be secured, in case they should meet us upon the basis of our late overture; and proceeds to state that he presumes the Government of the United States would not complain if their naval force should assist in preventing a commerce with France. What answer, sir, does Mr. Pinkney

give to this question? It is unfortunate that the account of this "unofficial conversation" is so brief, that the answer of Mr. Pinkney is not given at all. After stating the second question, which went to making the repeal of the British orders and American embargo contemporaneous, Mr. Pinkney, without having made any answer to the two questions, goes on to say, "I took occasion, 'towards the close of the conversation, to mention the recent appointment of Admiral Berkeley to the Lisbon station," &c. That some conversation passed between Mr. Pinkney and Mr. Canning on the subject to which the questions related, there can be no doubt. This, indeed, is acknowledged in the subsequent letters of Mr. Pinkney. I cannot, sir, but regret that the President of the United States has thought it improper to communicate to us the answer which Mr. Pinkney gave to the first question proposed to him by Mr. Canning. That the whole conversation that passed between them on the 18th and 22d of January, or the substance of it, was communicated to the Secretary of State, no one can doubt; and I am willing to presume that the President has withheld it from motives of delicacy towards Mr. Pinkney, or from a sense of the impropriety of publishing to the world the free and unofficial conversations between public Ministers; and although I am sensible that, at times, and particularly pending a negotiation, a publication of these conversations may be improper; yet, sir, when a question of magnitude is brought before this House for decision, and such a question as we are, or may be, unable to decide correctly, without a full knowledge of what has passed between our Minister and a foreign Government relative to it, I must think that this information ought not to be withheld from us.

But, sir, let us endeavor to obtain this information as well as we can from the subsequent letters of Mr. Pinkney. On the 6th of June, 1809, Mr. Pinkney writes to the Secretary of State:

"Mr. Canning tells me that the conversations detailed in Mr. Erskine's letters did not, as I had supposed, suggest that the Government of the United States would allow it to be understood, that British cruisers might stop American vessels attempting to violate the embargo and non-intercourse, continuing as to France, &c., after they should be withdrawn as to Great Britain. They suggested that the United States would side with the Power revoking its edicts against the Power persevering. This, Mr. Canning says, he considered (although he did not so insist upon it, in the recapitulation contained in his instructions to Mr. Erskine) as comprehending what I thought he had represented the actual suggestion to be, and what he supposed I had said to him, in an informal conversation, at his house in Briton street, on the 22d of January, in an answer to one of his inquiries. It will, I am sure, occur to you, as the fact is, that the little I may have thrown out upon that occasion, did not look to the admission of Mr. Canning's object, into any stipulation between the two countries, and that I received it only as a consequence, that might and would, if France persisted in her unjust decrees, grow out of arrangements similar to those offered by us in August last."

In this letter, sir, Mr. Pinkney admits that, on the 22d of January, he said something to Mr. Canning, by way of answer to one of his inquiries, and it must have been to the first inquiry which Mr. Canning made. And what, sir, was this answer? Notwithstanding the obscurity with which it seems to be enveloped, it is manifest, that Mr. Pinkney did admit, that Mr. Canning's object might be obtained in some way. The negative terms which he uses clearly imply it:—"What little he may have thrown out (he says) did not look to the admission of Mr. Canning's object into a stipulation between the two countries." To what, then, let me ask, did it look? For it looked to the admission of it for some purpose. What was the object Mr. Canning had in view? To have security that our embargo and non-intercourse should be enforced as to France after it should be taken off as to Great Britain; and, for the purpose of obtaining that object, he intimates to Mr. Pinkney that their naval force might be employed without any complaint on our part. Mr. Pinkney seems to say, that the object might be obtained by means of the British naval force, but not in consequence of any stipulation; but, as he adds, "as a consequence that might and would, if France persisted in her unjust decrees, grow out of arrangements similar to those offered by us in August last." What that consequence would be, and what those arrangements were which he offered, I have before stated, viz: is to place us at issue with France. And, sir, it appears by Mr. Erskine's letter to Mr. Smith, of the 14th of August, page 16th of the correspondence, that Mr. Madison informed Mr. Erskine, "that the United States would at once side with that Power against the other which might continue its aggressions."

When our Government has, therefore, informed Great Britain, that in case the revocation of the Orders in Council was not followed by the revocation of the decrees of France, we should be placed at issue and in collision with France, and that we would side with (which must mean to take part with, if it means anything) that Power against the other, which might continue its aggressions; was it not very natural that Mr. Canning should make the inquiry, which he did? But, sir, here let me ask gentlemen in what light was this third condition viewed by our Government at the time of the arrangement? Hear what Mr. Erskine says on this subject in his letter of explanation to Mr. Smith: "The third condition (he says, page 20) you certainly very distinctly informed me, could not be recognised by the President; but you added, what had great weight in my mind, that you did not see why any great importance should be attached to such a recognition, because it would be impossible that a citizen of the United States could prefer a complaint to his Government, on account of the capture of his vessel while engaged in a trade absolutely interdicted by the laws of his country." From this statement of Mr. Erskine, it appears, that although this condition could not be recognised by the President, yet that no great

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

importance could be attached to such a recognition—and why, sir? Because our citizens could not complain if captured by the naval force of Great Britain while violating the laws of their country. And, Mr. Erskine says, that this had great weight in his mind. Why, sir, should this remark of our Secretary of State have weight with him unless he was satisfied, that although this condition was not recognised “in the formal manner required” by his instructions, yet that his Government would in reality have the full benefit of it in this side-way manner; and that, with this understanding with our Government, he had, in making the arrangement, complied at least with the spirit of his instructions? I find it difficult, sir, to reconcile these remarks of the Secretary of State, made at the time of the arrangement, with those I find made by him on the same subject, in his correspondence with Mr. Jackson. In his letter of October 19th, 1809, he says: “The other demand could still less have been apprehended. Besides, the inevitable and incalculable abuses incident to such a license to foreign cruisers, the stipulation would touch one of those vital principles of sovereignty which no nation ought to have been expected to impair—for where would be the difference in principle between authorizing a foreign Government to execute, and authorizing it to make laws for us? Nor ought it to be supposed that the sanctions and precautions of a law of the United States, in the cases of the prohibited trade in question, would prove inefficacious for its purposes.” I do not hesitate to declare that I would never consent that the naval force of Great Britain should enforce our laws; I would not consent that it should be done either directly or indirectly, by way of stipulation, or in any other way: and I cannot but regret that the Secretary of State should, at the time of the arrangement, have attached so little importance to a condition or proposition of this kind. I do believe that our citizens could not only complain when thus captured by a foreign naval force, but that they ought to complain, and ought also to obtain redress from their Government. As to the views which our Government had of the first and second conditions, at the time of the arrangement, Mr. Erskine says, page 19: “I consider it, however, to be my duty to declare, that during my negotiation with you, which led to the conclusion of the provisional agreement, I found no reason to believe that any difficulties would occur in the accomplishment of the two former conditions, as far as it was in the power of the President of the United States, to accede to the first, and consistently with the explanation which I have before given of the second point.” I have made these observations relative to the three conditions contained in Mr. Erskine’s instructions, for the purpose of showing that they were proposed by the British Ministry, from a supposition that they would be agreed to by our Government; and that this supposition, to make the most of it, was founded on the mistaken conceptions of certain unofficial conversations that passed between the

agents of the two Governments. It was my wish also to satisfy this House and the nation, not only of the impolicy, but of the folly of taking a course, in consequence of these mistakes, which might, and in all probability would, involve this country in a war.

I will add, sir, but a few words more. I would beg gentlemen, before they pass this resolution, to call to their recollection the present unparalleled state of the world. History furnishes no example to be compared with it. A new era has arisen. France commands by land, and England by sea. The whole Continent of Europe, hitherto composed of many independent kingdoms, powerful in arms, and justly celebrated for their improvement in all the arts of civilized and social life, is now bending beneath the iron yoke of a military despot.

England alone, in that quarter of the world, remains unsubdued by the mighty conqueror. For more than ten years a war has now been waged between that nation and France; a war which has never been equalled, either as to the objects which it had in view, or as to the manner in which it has been carried on. In this mighty conflict, principles of public law have been disregarded and trampled under foot, and we have been the victims of its fury. In this state of the world, in vain shall we expect to be able to resettle the law of nations upon its ancient basis; nay, it can hardly be supposed that we can make treaties with either on any permanent principles. Have we not a treaty with France which secures to us, as far as treaties can secure, the freedom of the seas? Does not this treaty provide, that in case France is at war, “we may sail, with our ships and merchandise, not only to enemies’ ports, but from enemies’ ports to neutral ports, and even from one place belonging to an enemy to another place belonging to an enemy, without any opposition or disturbance whatsoever?” Notwithstanding this, our vessels are seized, not only for entering an enemy’s port, but are captured and burnt on the high seas for having done so. No regard, sir, is paid by France to her most solemn stipulations. And has not our Minister, Mr. Armstrong, long since told us and the French Government, that to appeal to the stipulations in this treaty, or to the law of nations for redress, “would literally be appealing to the dead?” France says, that Great Britain regards no law; that she forgets “all ideas of justice, and all humane sentiments; that she insults even reason itself.”—That France, therefore, is obliged to forget them herself. Great Britain, on the other hand, says, that France “has established an unprecedented system of warfare against her, aiming at the destruction of her commerce and resources,” and that she is compelled to adopt retaliatory measures for her own security. And in this unheard-of conflict, whose end none can tell, neutral rights have been disregarded. If, sir, by passing this resolution; if by the magic influence of words; nay, if by force itself we could hush the mighty tempest which is now desolating the fairest portion of Europe, and which, I fear, will too soon

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

desolate our happy shores, I would be the last to be found in the ranks of opposition. But, sir, our efforts must be vain. From the moment we seriously enter into this contest against Great Britain, instead of securing our neutral rights, we seal the ruin of our country. The inevitable consequence must be an alliance with her enemy; and I cannot but view such an alliance with a sort of horror I am unable to describe. No ally of Bonaparte has ever fought, but to increase the power of this military despot, and to lose their own independence. And we cannot expect to share a different fate. It is possible, sir, that in this contest, what has been called the freedom of the seas may be obtained; but it will not be obtained for us; it will only be transferred to him who now commands the freedom of the land.

FRIDAY, December 29.

Another member, to wit: from North Carolina, JAMES HOLLAND, appeared and took his seat.

Mr. LEWIS presented a petition of the Levy Court of the county of Alexandria, and of the Common Council of the town of Alexandria, in the District of Columbia, praying a grant of money sufficient for the erection of a permanent jail in the said county, for the safe-keeping of prisoners.—Referred to the District Committee.

BREACH OF PRIVILEGE.

Mr. TAYLOR, from the committee appointed to inquire into the circumstances alluded to in the letter of I. A. Coles to the Speaker of the House, made the following report:

That, according to order, they have taken into consideration the subject referred to them; that in making the proposed inquiry they have taken the depositions of the honorable James Turner, a Senator of the United States, and of Mr. Samuel Sprigg, which depositions they beg leave to report to the House.

From these depositions it was established, to the satisfactory belief of your committee, that Mr. I. A. Coles, without any immediate previous altercation or provocation, did assault and strike a member of this House, within the walls of the north wing of the Capitol; that this act was done on Monday, the 27th ult., about one o'clock P. M., and after this House had adjourned over to the following day.

That, from the assertions of Mr. Coles, and from the actual admission of the member assaulted, your committee were satisfied that the provocation or supposed provocation which occasioned the attack did not arise from anything said or from any act done by the member of this House, in the fulfilment of his duties as a Representative in the Congress of the United States.

Your committee are of opinion that this latter circumstance may be received in extenuation, but cannot be admitted in justification of the act done by Mr. Coles; and, from all the circumstances of the case, they are of opinion that said assault and violence offered to the member was a breach of the privileges of this House.

Your committee further report, that they have considered the letter of Mr. Coles to the Speaker of this House, together with another letter from Mr. Coles addressed to the Chairman of your Committee; (which they also beg leave to report to the House,) that these two letters, in the opinion of your committee, do con-

tain acknowledgments and apologies on the occasion, which ought to be admitted as satisfactory to the House. They therefore recommend the following resolution.

Resolved, That any further proceeding in the above case is unnecessary.

To the Hon. John Taylor, Chairman, &c.

SIR: Understanding that the declaration which I had the honor this morning to make before the Committee, will be more acceptable if put in the written form, I hasten to comply with what I believe to be their wish, in tendering through them, to the House of Representatives, the renewed assurance "that if I could have supposed that the circumstance alluded to in my letter to the Speaker, would have been construed into a breach of the privilege of the House, it would not have occurred at the time and in the place where it unfortunately happened."

With sentiments of great respect, I am, your obedient humble servant,

I. A. COLES.

December 28, 1808.

Ordered to lie on the table.

CONDUCT OF THE BRITISH MINISTER.

The House resumed the consideration of this subject; when Mr. PITKIN concluded his speech, as given in full in preceding pages. At four o'clock Mr. LIVERMORE commenced a speech, but gave way for a motion to adjourn which was carried, 53 to 51.

SATURDAY, December 30.

A motion was made by Mr. DAWSON, that the report made yesterday, on the occurrence between I. A. Coles and a member of this House, and the documents accompanying the same, be printed for the use of the members; and the question being taken thereon, it was resolved in the affirmative—yeas 76, nays 25. The report and documents were referred to a Committee of the Whole on Thursday next.

CONDUCT OF THE BRITISH MINISTER.

The House resumed the consideration of the unfinished business, being the resolution from the Senate—the motion for indefinite postponement yet under consideration.

Mr. POINDEXTER.—Mr. Speaker, it has not heretofore been my practice to address you on subjects relating to the general welfare of the nation. I have hitherto confined myself to the discharge of those duties which devolve on me as the sole Representative of a distant and important Territory. But, on the present occasion I deem it an indispensable duty, to the performance of which I am led by every impulse of feeling, to express to this honorable assembly, to my constituents, and to the world, my opinions concerning the resolution under consideration. Sir, the present ought not to be considered a party question. The sovereignty, the honor, and the best interests of America, have been assailed, and the Executive Magistrate most grossly insulted, by Francis James Jackson, the Minister Plenipotentiary from His Britannic Majesty to the United States; a Minister sent among us to excite the demon of discord and division; a legalized

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

spy, prowling from Hampton to New York, and through every city, town, and village, to designate the victims of corruption, and to subvert, if possible, the allegiance of the citizens from their Government, and thereby promote the views of the King, his master. Under such circumstances there ought to be but one sentiment from Mississippi to Maine, and that sentiment should prompt us, without distinction of party, to rally around the constituted authorities of our common country, and, by a patriotic burst of indignation, to *scout the foreigner*. While, sir, the pendulum of reason vibrates between the innocence or guilt of those who administer the Government of my country, I shall never hesitate to support the Government against every species of foreign influence. Yes, sir, so long as there is a loop on which to hang a doubt, the vindication of the country to which I owe my existence, and to which I am bound by the strongest ties of affection, shall call forth the energies which it has pleased Heaven to bestow on me.

But, in the present instance, the course pursued by the Executive is manifestly founded in wisdom, moderation, and firmness, and merits the undivided support of the American people. Can I then, sir, forbear to express my astonishment that the Minister of Great Britain should find an advocate within these sacred walls? It is not wonderful that, in matters of internal policy, we should differ as to the means best calculated to promote the general good; these differences often lead to useful investigation, and produce the most salutary results. But I cannot reconcile my mind to the novel and afflicting controversy which has arisen out of the subject under consideration.

Before I proceed to discuss the points immediately embraced by the resolution on your table, permit me to notice the remarks which have been made by gentlemen opposed to the measure in relation to the character of Mr. Jackson. On this subject there appears to exist an uncommon portion of sensibility. The gentleman from Massachusetts (Mr. QUINCY) has told us that we are about to fulminate legislative contumely against the accredited Minister of the Sovereign of a great and powerful nation, who is bound to see that whatever treatment he may receive is not disrespectful. And the gentleman from New York (Mr. GARDENIER) has added, that the adoption of this resolution will inflict a fatal wound on the character of Mr. Jackson. Sir, I beg gentlemen who feel thus tenderly for the reputation of this Minister, to tell us in what country he has acquired the celebrity of character? By what noble deeds has he signalized himself, and where is the record of them to be found? Was it prior to his memorable mission to Copenhagen, or subsequent to that disgraceful event, that he was clothed with the mantle of fame, of which we are about to disrobe him? If gentlemen refer to a period anterior to the destruction of that devoted city, I put it to their candor to say, if that act of perfidy, at the recollection of which the human mind recoils with horror and detestation, is not enough to stamp with infamy

the vile instrument of treachery and assassination who performed it? Can gentlemen be really in earnest when they speak with reverence of the character of Mr. Jackson? I hope they will pardon my doubts as to the sincerity of their declarations. What, sir, was the conduct of Mr. King, our late Envoy Extraordinary and Minister Plenipotentiary in London, when it was proposed to send this same Mr. Jackson to the United States as the Minister of Great Britain on a former occasion? And let it be remembered that Mr. King is a Federalist; a distinguished member of that party who now manifest so much zeal in vindicating the character of Mr. Jackson. If I am correctly informed, and if not I call upon gentlemen to deny the fact, Mr. King felt it his incumbent duty to remonstrate against the appointment of Mr. Jackson as the resident Minister in the United States. Was this a wanton act on the part of Mr. King? Will it be alleged by any gentleman in opposition to this resolution, that Mr. King was actuated by any unworthy motive in that transaction? I presume to say that such insinuations will not receive the slightest support. To what cause, then, are we to look as the basis of this remonstrance? The turbulent and unprincipled character of Mr. Jackson must suggest itself to every mind as the foundation of the objection. The British Ministry, on every occasion which required extraordinary duplicity, have availed themselves of the services of this incendiary. These facts cannot be controverted, and yet gentlemen tremble lest the fame of this immaculate personage should fall a sacrifice to the ruthless violence of legislative contumely!

Mr. GARDENIER said he supposed the gentleman alluded to him as attempting to patch up a character for Mr. Jackson. That I expressly disclaim; and if the gentleman had understood my argument, his candor certainly would have prevented him from imputing to me that intention. I did not speak of the merits of Mr. Jackson, but took this point, that the British Government considered his character as good, and our denunciation of it, whether it is demonstrated to be bad or not, so long as they think he does not deserve it, is calculated to produce an obstacle to negotiation which cannot be overcome. I did not speak of his character.

Mr. POINDEXTER said he had understood the gentleman in the manner he had stated his argument; the House would determine whether he had understood him correctly or not. But, sir, while gentlemen are thus anxious to save the rotten fabric of Mr. Jackson's reputation from the destruction which awaits it, are they ignorant of the deleterious effects which the rejection of this resolution would have on the character of the President of the United States? A man whom eulogy cannot exalt, and who soars above the miserable shafts of calumny and detraction. In order to elucidate this point, I beg the indulgence of the House, to take a concise view of the measures which were in operation at the close of the last session of the tenth Congress. Commercial intercourse between the United States and Great

H. of R.

Conduct of the British Minister.

DECEMBER, 1809.

Britain and France, and their dependencies, was wholly interdicted. Provision was made by law for raising a military force of six thousand men in addition to the Military Peace Establishment of the United States; for manning and equipping the whole naval force, including a large number of gunboats for actual service, and for holding in requisition one hundred thousand militia, to be ready to march at a moment's warning. These were the precautions which the crisis demanded. Well, sir, what were the events which occurred to produce a relaxation in these preparations for a state of actual hostility? About one month previous to the meeting of the extraordinary session of Congress, in May last, it was officially announced to the President by David M. Erskine, the British Minister Plenipotentiary in this country, that he had received His Majesty's instructions to offer suitable and honorable reparation for the aggression committed by a British naval officer, in the attack on the United States' frigate *Chesapeake*. The offer of satisfaction was accepted. This part of the arrangement was followed by propositions from Mr. Erskine for a renewal of commercial intercourse between the respective countries, which was likewise accepted; in consequence of which, Mr. Erskine explicitly states, in an official letter to Mr. Smith, the Secretary of State, that he is "authorized to declare 'that the Orders in Council of January and November, 1807, will have been withdrawn on the 'tenth day of June next.'" The President of the United States proceeded immediately to execute, with good faith, the agreement on his part, by issuing a proclamation declaring the revocation of these Orders in Council, whereby commercial intercourse between this country and Great Britain, and her dependencies, was restored.

Permit me now, sir, to call the particular attention of gentlemen to the Message of the President, at the opening of the May session, from which I beg leave to make a few extracts: "A revision of the commercial laws, proper to adopt 'them to the arrangement which has taken place 'with Great Britain, will doubtless engage the 'early attention of Congress."

Again: "Under the existing aspect of our affairs, I have thought it not inconsistent with a 'just precaution, to have the gunboats, with the 'exception of those at New Orleans, placed in a 'situation incurring no expense beyond that 'requisite for their preservation and convenience 'for future service; and to have the crews of 'those at New Orleans reduced to the number 'required for their navigation and safety. I have 'thought, also, that our citizens detached in quotas of militia, amounting to one hundred thousand, under the act of March, 1808, might not 'improperly be relieved from the state in which 'they were held for immediate service. A discharge of them has accordingly been directed. 'And it is further submitted to the judgment of 'Congress to decide how far the charge in our 'external prospects, may authorize any modifications of the laws relating to the Army and 'Navy Establishments."

What are the plain and obvious conclusions to be drawn from the "promptitude and frankness with which the President met the overtures of Great Britain," and the full confidence which he here manifests in the good faith of that Government? The inference is irresistible, that he did not entertain the most distant suspicion that Mr. Erskine had either acted without authority, or that he had violated his instructions. But suppose the resolution under consideration should be rejected. In that event, the expressions contained in Mr. Jackson's letter of the 11th of October, which are repeated in several other communications, conveying the idea that the Executive Government of the United States had a knowledge that the arrangement made by Mr. Erskine in behalf of his Government was entered into without competent powers on the part of Mr. Erskine, will receive all the support which this House can give them. I demand of gentlemen who oppose the passage of the resolution, whether such a proceeding would not contain a charge of twofold perfidy against the President of the United States? It would speak a language not to be mistaken. In the first place, the arrangement was entered into by the President with a knowledge that it could lead to no other result than a disavowal, and with this knowledge he permits the ocean to be covered with the products of the American people, exposed to the robbery and plunder of British and French privateers. He directs the whole of the gunboats, with the exception of a few at New Orleans, to be placed in a situation incurring no expense, except that necessary for their preservation. The quota of one hundred thousand militia, ordered to be held in requisition for immediate service, is discharged. And the change in our external prospects is made the basis of a recommendation to reduce the Army and Navy Establishments, added to which the recruiting service was actually suspended in obedience to that recommendation. Yes, sir, in order to save Mr. Jackson from disgrace, and to fortify the honor of the British nation, the President must bear the foul imputation of having entered into a fraudulent contract with Mr. Erskine, and what is still more perfidious and extravagant, of having corruptly recommended to Congress the reduction of our means of national defence, on the ground of that arrangement, which, at the time it was made, he knew would result in a disavowal on the part of His Britannic Majesty. I cannot submit, in silence, to insinuations like these, against the Chief Executive Magistrate of the only free people on earth. No man whose mind is exempt from the despotism of prejudice, can for a moment countenance such glaring absurdities.

I shall now, sir, take a view of the ground on which the act of the British Minister Plenipotentiary in the United States is professedly disavowed. In the course of this discussion, it seems to have been admitted, that if Mr. Erskine did really violate his private instructions, the disavowal of the arrangement of April by the British Government was regular and not inconsistent

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

with public law. From this opinion I beg leave to dissent. First, because the agreement was not contingent or executory. Secondly, because the engagements entered into came within the open commission and acknowledged powers of the Minister who concluded it. And, thirdly, because it was executed with good faith on the part of the United States. Besides the usual letter of credence with which the Minister of one sovereign Power is furnished to the sovereign power of the Government at which he is accredited, Mr. Erskine was clothed with special authority on this particular occasion. In the despatch of the 23d of January, Mr. Canning, after enumerating the three conditions which Mr. Erskine was instructed to propose to this Government, proceeds with his instructions in the following language: "As, however, it is possible that the delay which must intervene before the actual conclusion of a treaty may appear to the American Government to deprive this arrangement of part of its benefits, I am to authorize you, if the American Government should be desirous of acting upon the agreement before it is reduced into a regular form, either by the immediate repeal of the embargo and the other acts in question, or by engaging to repeal them on a particular day, to assure the American Government of His Majesty's readiness to meet such a disposition in the manner best calculated to give it immediate effect."

Thus, Mr. Erskine is made the sole judge of the extent and import of his instructions, and if he has been guilty of a departure from them, his Sovereign cannot take advantage of that circumstance so as to work an injury to the other contracting party. But, independent of this special power, I contend that the act of Mr. Erskine was strictly within his general letter of credence, and that the British Government was bound to perform the agreement on its part, unless it could be shown that fraud and collusion had been practised between Mr. Erskine and Mr. Smith, the American Secretary of State. This I think was manifestly the opinion of Mr. Canning, which I shall attempt to show from Mr. Jackson's correspondence in the course of my argument. Mr. Canning, without doubt, knew the law on this subject, and had charged the successor of Mr. Erskine to make out a good case, for the preservation of His Majesty's honor.

Permit me now, sir, to examine what are the established principles of public law, in relation to contracts entered into by proxy. I shall refer in the course of my remarks to the several writers on the law of nations, whose authority will not be questioned, and for greater convenience, I propose to give a quotation from each in succession. *Puffendorf*, page 309-10—Here the principle for which I have contended, is clearly supported:

"If any agent be sent with a double commission, one open, to show the person with whom he is to transact, the other secret, prescribing what steps he shall take, and how far he shall proceed; it may be made a question whether the agent shall oblige his principal if he exceed his

private and secret orders, and yet to keep within his open commission where the affirmative side ought to be maintained. For, by my own instructions, I bind myself to the third person with whom the contract is made that I will ratify and make good what my agent shall conclude on. And by my *secret orders* I bind my agent not to recede from such positive terms, in which point if he transgress, he stands accountable to me, for so much as I lose by his mismanagement, but I am still tied to perform to the third person, what was thus granted in my name. For otherwise there could be no manner of safety in treating by commissioners, it being ever to be feared, lest their secret directions should differ from their *open powers*, neither could there be a more specious pretence made use of to overthrow all affairs transacted by mediation, and to deceive, and abuse men with vain treaties. But it must be observed, we suppose here, as in the former case, that the agent, when he thus transgresses the bounds of his private instructions, did it not out of a dishonest and treacherous design."

The same doctrine is held by *Rutherford*, vol. 1, page 194—

"Where we have given a man a power or commission to act for us as our proxy, though no restrictions or limitation of such commissions may appear, yet it frequently happens that we give some private instructions to such proxy, or agent, in what manner we would have him act, and how far he may go. Suppose him then to act contrary to these private instructions, and to go farther than we allowed him, we shall be obliged to stand to the promise which he makes for us, notwithstanding our consent seems to be wanting. For that act of our will whereby he was appointed our agent, which is the only act of our will that is or can be known by the party to whom the promise is made, is sufficient to make what such agent does for us, be considered as our own act; the private instructions which we gave him cannot affect any one to whom they are not known, and from whom we were determined to conceal them; they cannot therefore so affect the party to whom the promise is made as to prevent his claim upon us. The consent which appears to him, must in respect of him, be looked upon as our true and full consent. If it was otherwise, there would be such room for collusion, between the promiser and his agent, that it would be in their power at any time, to prevent any obligation from arising upon the promises thus made."

I trust, sir, no gentleman will hereafter attempt to justify the conduct of the British Government, either on the ground that Mr. Erskine violated his secret instructions, or that he was not possessed of a full power. The despatch of the 23d January authorizes him to conclude an agreement to take immediate effect, without any reservation to suspend its operation for the ratification of His Majesty. Mr. Canning well knew that the first information received in England of such an agreement, would bring with it the supplies so necessary to relieve the wants of his suffering country: it was therefore important that the British Minister here should stipulate for the fulfilment of the terms agreed on by His Majesty, and thereby prevent delay in the benefits which would result to that nation, from the enlargement of our commerce.

But, whether we consider that special authority or the general letter of credence, it is equally clear

that the British Government was bound by the act of its Minister. The plea that Mr. Erskine had violated his private orders is unavailing, both in reference to the known and established principles of public law, and to the plain and obvious dictates of reason, and of common sense. I challenge any gentleman to show, in the annals of diplomacy, a solitary case in which the veracity of an accredited Minister at any Court has been questioned, when he officially makes known the instructions he has received from his Sovereign. If then Mr. Erskine had authority to bind his Government, it may be useful to examine the ground on which the contract he entered into with the President might be impugned. On this point, I refer gentlemen to *Polhier* on Obligations, page 21:

"It is only the fraud which has given rise to the contract that may give occasion for the rescision of it, viz: the fraud by which one of the parties has induced the other to contract, who would not have contracted without it. 2. It is requisite also, in order that I may claim the rescision of my engagement, that the fraud which has been made use of in order to induce me to contract should have been committed *by the party with whom I have contracted*, or at least that he should have participated in it. If it has been committed without his participating, and if I have not besides been enormously injured, my engagement is valid, and is not liable to rescision."

These are the principles upon which alone the arrangement of April could have been disavowed by the King of Great Britain, without a sacrifice of the honor of the British nation; and I think it very evident that Mr. Jackson has taken as the basis of his correspondence with Mr. Smith, not merely that Mr. Erskine violated his instructions, but that the Secretary of State had induced him to substitute terms which were known not to be within his powers, and consequently that the agreement originated in fraud and collusion. This, sir, is the broad position assumed by Mr. Jackson, in his letter of the 11th of October. In that letter he states that it would have been unreasonable for this Government to complain of the disavowal of an act, done under such circumstances as could only lead to the consequences that have actually followed, and then proceeds to explain the circumstances to which he alludes:

"It was not known when I left England whether Mr. Erskine had, according to the liberty allowed him, communicated to you *in extenso* his original instructions—it now appears he did not. But in reverting to his official correspondence, and particularly to a despatch addressed on the 20th of April to His Majesty's Secretary of State for Foreign Affairs, I find that he there states that he had submitted to your consideration the three conditions specified in those instructions, as the ground-work of an arrangement which, according to information received from this country, it was thought in England might be made with a prospect of mutual advantage. Mr. Erskine then reports, *verbatim et seriatim*, your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you that these letters were an equivalent for the original conditions, but the very act of substitution, evidently shows that these origi-

nal conditions were in fact very explicitly communicated to you, and by you of course laid before the President for his consideration. I need hardly add, that the difference between these conditions and those contained in the arrangement of the 18th and 19th of April is sufficiently obvious to require no elucidation; nor need I draw the conclusion, which I consider as admitted by all absence of complaint on the part of the American Government, viz: that, under such circumstances, His Majesty had an undoubted and incontrovertible right to disavow the act of his Minister."

Here then we have the original ground taken by Mr. Jackson, to vindicate the honor of his Sovereign. I do not believe that this was the work of his own imagination. No, sir—it formed an object of no small magnitude in his mission to this country, to inculcate the Executive Government of the United States in this affair, and thereby to exculpate His Majesty from the disgrace incident to the violation of a solemn engagement. "The breach of a solemn promise," says a modern writer, on the law of nations, "is a violation of another person's right, and as evidently an act of injustice as it would be to rob a man of his property."

Mr. Canning, well knowing that the King, his master, had reserved no right "to disavow the act of his Minister," in the despatch of the 23d of January, and that, upon the most solid principles of public law, he could not refuse with good faith to execute his part of the agreement, except he supported the allegation of fraud between the contracting parties, charges the new Minister to rest the justification of the disavowal on that basis. And what, sir, are the reasons urged by Mr. Jackson to show the right of His Majesty to disavow the agreement of April? does he rely on the assertion, that Mr. Erskine made propositions to this Government not warranted by his instructions, and therefore not binding on his Sovereign? No, sir. Does he pretend that a full power was necessary to give validity to the contract? This is not pretended. But he says, explicitly, that Mr. Smith was made acquainted with the three conditions, contained in the despatch of the 23d of January, that he made observations on each of them, and offered reasons, why he thought others might be substituted in lieu of them. It may, says Mr. Jackson, have been concluded between you (Mr. Smith and Mr. Erskine,) that these latter were an equivalent for the original conditions. The evident meaning of these expressions is, that the arrangement of April was first conceived by Mr. Smith, that he proposed to substitute it in lieu of the original conditions, and that he collusively prevailed on Mr. Erskine to accept them as an equivalent for those conditions. To show that Mr. Jackson never lost sight of this charge against the American Secretary of State, I refer to a sentence in his letter of the 23d of October. "So far from the terms which he (Mr. Erskine) was actually induced to accept having been contemplated in his instructions, he himself states that they were substituted by you in lieu of those originally proposed." From this view of the subject, I must conclude, that not only Mr.

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

Jackson, but the British ministry themselves, were of opinion, that to refuse with honor to carry the arrangement of April into effect on their part, it was incumbent on them to show that the Executive of the United States had fraudulently induced Mr. Erskine to substitute that arrangement in lieu of the conditions "originally proposed." Mr. Jackson expressly admits, in his letter of the 4th of November, that he must continue to repeat this insulting charge, "whenever the good faith of His Majesty's Government is called in question;" and for what purpose? "To vindicate its honor and dignity, in the manner that appears to me best calculated for that purpose." This is indeed a most unfortunate admission for Mr. Jackson. The official correspondence of Mr. Erskine with the Secretary of State, repels the foul insinuation, and fixes a stain on the honor of the British nation, which the corroding hand of time cannot efface.

But the gentleman from Connecticut (Mr. PIRKIN) has told us that the agreement entered into by Mr. Erskine could not bind his Government, because that gentleman had no full power. A sentence from Mr. Jackson's letter of the 4th of November will answer that argument more conclusively than volumes of reasoning in all the syllogistic forms of ancient or modern logicians. "I must beg your very particular attention to the circumstance, that His Majesty's ratification has been withheld, not because the agreement was concluded without a full power, but because it was altogether irreconcilable to the instructions on which it was professedly founded." The gentleman from Connecticut admits that the President could not demand a view of Mr. Erskine's secret instructions, and Mr. Jackson assures us that the want of a full power formed no part of the motive which induced His Majesty to withhold his ratification. A more complete justification of the American Government could not be given than is contained in these conflicting arguments. I have shown that Mr. Canning, in the despatch of the 23d of January, had provided for an immediate execution of the agreement; the instructions of Mr. Erskine were known only to himself, and were submitted to be exercised entirely at his discretion, according to his own opinion of their spirit and intention. The ratification of His Majesty is not made a prerequisite to the fulfilment of the agreement on our part; it follows, therefore, according to the respectable authority which I have quoted, that the breach of a perfect promise made on the part of Great Britain, by a Minister whose powers are acknowledged to be full and sufficient for the purpose, is a violation of right, "and as evidently an act of injustice as it would be to rob a man of his property."

The cases referred to by the gentleman from Connecticut relate to treaties, conventions, and explanatory articles of treaties, where the consent of the co-ordinate department of the Government, to whom the treaty-making power is confided, must be obtained before either party is at liberty to proceed to their execution.

To illustrate the distinction which I shall take between the disavowed arrangement and a treaty, I refer to *Ward's* history of the Law of Nations, page 231. "By treaties, I do not mean merely those agreements which men fall upon in order to bring about a cessation from war. But all those deeds, whatever they were, by which some uncertainty was put out of doubt, some contingent difficulty smoothed away, and the natural rights of mankind not unfrequently trencched upon in order the better to enjoy those that remained." The Minister of Great Britain, in the case under consideration, entered into no deed either formal or informal, but merely declares himself to be authorized to pledge His Majesty for the performance of an act purely Executive. The removal of the Orders in Council is altogether a Cabinet measure, which might be taken at any moment in the recess of Parliament. This Government, therefore, could not conceive itself at liberty to hesitate in placing full confidence in the official declarations of Mr. Erskine, that he was instructed to declare, "that the Orders in Council of January and November, 1807, will have been withdrawn on the 10th day of June next." Let us look, sir, at the conduct of Mr. Canning in a case precisely apposite to this. The President of the United States was authorized, in the event of such peace or suspension of hostilities between the belligerent Powers of Europe, or of such changes in their measures affecting neutral commerce, as might render that of the United States sufficiently safe, in his judgment, to suspend in whole, or in part, the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto. Instructions were, accordingly, forwarded to our Minister at London to propose a suspension of the embargo, as an equivalent for the removal of the British Orders in Council, so far as they respected the United States. This proposition, it seems, was, in the first instance, communicated in conversation between Mr. Pinkney and Mr. Canning, upon which the latter has made the following remarks: "In the first of our conferences, I understood you to say little more on the authority of your Government, than that you were instructed to remonstrate against the Orders in Council of the 7th of January, and of the 11th of November, 1807, but to add, as from yourself, an expression of your conviction, that if those orders were repealed, the President of the United States would suspend the embargo, as to Great Britain. Upon the consequences of such a suspension of the embargo, while it would still continue to be enforced against France, you expatiated largely, still speaking, however, as I understood you, your own individual sentiments." Will gentlemen dispute the accuracy of the orthodox, sharp-sighted George Canning? I think, sir, unless some radical change has very recently taken place, there is nothing to be feared on that score. Mr. Pinkney, in these conversations, was induced to believe that his proposal would be well received, and Mr. Canning, in order to evade the

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

obligation which he might have incurred relative to a removal of the Orders in Council, resorts to every pretext within the grasp of his fertile imagination to show that the proposition was not submitted in regular form, so as to make it binding on the President of the United States. Well, sir, does he demand of Mr. Pinkney the production of a full power? Is that made a *sine qua non* to all further negotiation? None of these things appear to have entered in the brain of Mr. Canning; notwithstanding, he seems peculiarly disposed to equivocate, and even to misrepresent the words of Mr. Pinkney. The only objection which he thought it plausible to urge was, that the overture was not made on the authority of the President, but that Mr. Pinkney expressed his own opinion, that, if the Orders in Council were removed, the President of the United States would suspend the embargo as to Great Britain.

The result of that correspondence shows, that the overture of Mr. Pinkney was rejected on principles of general policy, and not on either of the grounds of exception taken by gentlemen to the powers of Mr. Erskine. There is not the slightest shade of difference between the two cases. The removal of the embargo by the President, and of the Orders in Council by His Britannic Majesty, were reciprocal acts, each within the range of Executive authority, without requiring the interposition of any co-ordinate branch of either Government.

But, sir, it is impossible to mistake the duplicity of Mr. Canning in this transaction. We know too much of that jesuitical negotiator in America to be caught in the cobweb which he has thrown over the real motives which influenced His Majesty's Ministers in the disavowal of the act of Mr. Erskine. The delusive idea that he had violated his instructions, is the ostensible, not the real cause of the disavowal. I think that it has been satisfactorily shown, that the departure of a proxy from his secret orders does not impair a fair and bona fide contract which he enters into for his principal; and from the admissions of Mr. Canning himself, it will be readily inferred that such a departure is not, in fact, the consideration on which the arrangement of April was rejected. When Mr. Pinkney, our Minister in London, was informed that a new Minister was to be sent to America, Mr. Canning assigns as the reason, that Mr. Erskine had not acted in conformity to the despatch of the 23d of January, in obtaining the three conditions therein specified, and that these conditions must be obtained before any alteration could take place in the Cabinet measures of Great Britain, affecting the neutral commerce of the United States. He states explicitly, that Mr. Jackson is to proceed to America, "not on any special mission, which Mr. Erskine was not authorized to promise, except upon conditions—not one of which he has obtained."

On the 23d of June following, Mr. Canning, in a conversation with Mr. Pinkney respecting these very conditions, which he previously declared must be made the basis of the repeal of the Orders in Council, "admitted that the second con-

dition had no necessary connexion with the Orders in Council, and intimated that they would have been content to leave the subject of it to future discussion and arrangement. And with respect to the third condition, he said, that he was himself of opinion, that the idea upon which that condition turns could not well find its way into a stipulation; that he had, nevertheless, believed it proper to propose the condition to the "United States." If then, sir, the failure of Mr. Erskine to obtain the whole of these conditions was really the reason on which the act of that Minister was disavowed, why are the only objectionable conditions suddenly abandoned, and declared to be wholly unconnected with the Orders in Council, and inadmissible in any stipulation for their repeal? Does not this abandonment carry with it the most irrefragable demonstration that the arrangement of April, relative to the removal of the Orders in Council, was not disavowed because these conditions were not acceded to by the American Government? At one moment we are told, that no special mission can be authorized to this country except upon conditions—not one of which Mr. Erskine has obtained; and afterwards it is confessed that the two conditions, which were alone offensive to this Government, had nothing at all to do with the subject. I waive the evidence which is contained in Mr. Erskine's explanatory correspondence, as to the several letters of instructions with which he was furnished, and I rest my argument on this point solely, on the admissions of Mr. Canning in his conversations of the 23d of June, 1809. Sir, I am one of those who believe that this agreement was brought about by the shock which Great Britain sustained under the operation of our embargo. Mr. Canning had to perform the arduous task of quieting the murmurs of a hungry people. The great manufacturing interest of the nation were discontented and clamorous against Ministers, because they were thrown out of employment, and deprived of their usual supply of the important articles of cotton and tobacco, which they had been accustomed to receive from America. Ireland was on the brink of ruin. The British army in Spain was defeated, and compelled to return to England, covered with wounds instead of laurels. Admonished by these disastrous circumstances, and urged by the hard hand of necessity, the relaxation of their maritime restrictions appeared to be indispensable to the salvation of the British nation. It was this state of things which prompted Mr. Canning to furnish the several letters of instruction to Mr. Erskine, on which he was authorized to declare that the Orders in Council would be removed on a particular day. But, sir, before the success of Mr. Erskine's proposition for a renewal of commercial intercourse was officially known at the foreign office, the markets of Great Britain and her dependencies were glutted with the products of America. Their wants were supplied, and from a state little short of starvation, they were restored to the enjoyment of that abundance which custom had taught them to look for from this fer-

DECEMBER, 1800.

Conduct of the British Minister.

H. OF R.

tile region. The Continental war was renewed with great vigor by the ill-fated Emperor, Francis. The affairs of Spain revived again the desponding hopes of the British Ministry. New expeditions were planned; and the gloom which recent calamities had spread over the national prospects was exchanged for the illusory dream of countless victories, whose terrors should reach even the imperial throne of Napoleon himself. Buoyed up by these delusive calculations, His Majesty was induced to disavow the agreement entered into by Mr. Erskine with the American Government. The suggestion that Mr. Erskine acted contrary to his several letters of instructions, is a mere pretext, which cannot bear the penetrating touch of open and candid investigation. We have learnt from experience that the only security we can have for the good faith of the British Government, is necessity. The embargo was a weapon which might have been wielded with great effect in producing that necessity, and in redressing the wrongs inflicted on this country by the belligerent Powers of Europe. "God's chosen people," the planters of the Southern States and Territories, have sustained the most severe losses from the operation of the embargo, and yet no people in the Union have evinced a more ardent determination to support that and every other measure of policy calculated to vindicate the national honor. But the fact is notorious, that there was not virtue enough in the Eastern portion of the Union to carry the law into effect. That expedient is now rendered imbecile by the fatal experiment which it has recently undergone. There is now no alternative but war or submission. But the adoption of the resolution is deprecated, on the ground of its hostile aspect. We are told by the gentleman from New York, (Mr. GARDENIER,) that it is an appeal to the King of England, on the subject of the misconduct of one of his servants, not by argument, but by menace; and that gentleman has asked, what would be the conduct of Southern gentlemen, if required to chastise a servant who had transgressed, when that request was accompanied with a threat of personal violence in case of refusal? I will answer the gentleman's hypothesis by a concise statement of facts. The people of the United States have been robbed of their property while pursuing a lawful commerce on the high seas. Our fellow-citizens have been impressed to the number of several thousands, and compelled to enter into the service of His Majesty, on board his ships of war, without the most distant prospect of relief. A national ship has been attacked in a time of profound peace by a British squadron, and her crew most shamefully murdered within our own jurisdictional limits; for which acknowledged outrage upon the national sovereignty no honorable atonement has been made. Our commerce is restricted by the enforcement of regulations inconsistent with the most sacred principles which bind together the nations of the earth; and to cap the climax, the Executive Government of this country is charged with perfidy and falsehood in its very domicile.

Now, sir, I ask Northern gentlemen to say how they will resent these injuries and insults which the nation has received from Great Britain? Will they crouch under the lash of this inexorable tyrant? or, will they, by a manly display of dignified firmness, support the rights, the honor, and independence of the United States? Sir, between individuals, when the party assailed calls on those around him for protection, and seeks to shelter himself from danger, the assailant becomes more brave, and rushes with impetuosity in pursuit of the object of his vengeance; but where each man shows an equal disposition to maintain his ground, a parley is not unfrequently the result. The gentleman is unwilling even to menace His Most Gracious Majesty, but wishes, in the mildness of Christian forbearance, to appeal to him by argument, and persuade him to do us justice; while we are to retreat as if affrighted by some fell spirit of destruction from the proposition before us, because, forsooth, it may so affect the delicate nerves of His Majesty that he can never "speak to us again." Sir, this is not the language which was held by our venerable fathers who so nobly achieved our independence, and it is not the language which will perpetuate that independence.

If, indeed, we could be so pusillanimous as to dread the consequences of a manly declaration of our rights, and our determination to support them, it might be questionable whether Great Britain would stoop so low as to speak to us. Under such humiliating circumstances we should deserve the contempt of the world. The gentleman from Massachusetts (Mr. QUINCY) has denounced the resolution on your table as a tissue of falsehood. That gentleman has taken as the ground of his argument that the knowledge imputed to this Government of Mr. Erskine's instructions refers to the time of the disavowal, and to the time the agreement was entered into. I shall not ransack these documents for the purpose of sifting from Mr. Jackson's letters the most offensive expressions which they contain to show the great object of his mission was to rescue his own Government from disgrace by fixing a charge of fraud and collusion on the Executive of the United States, and that object is steadily pursued through the whole correspondence. But, as the gentleman from Massachusetts has given us a lumping argument, I shall call on Mr. Jackson for the only reply which it merits. And really, sir, I beg pardon of Mr. Jackson for having so often set him in collision with his friends. I hope it will produce no misunderstanding between them. Mr. Smith, in his letter of dismissal to Mr. Jackson, enumerates the causes why no further communications will be received from him; and that these may be fairly before the House, I beg leave to refer to the letter itself:

DEPARTMENT OF STATE,
November 8, 1809.

SIR: In my letter of the 19th ult., I stated to you that the declaration in your letter of the 11th, that the despatch from Mr. Canning to Mr. Erskine of the 23d of January, was the only despatch by which the conditions were prescribed to Mr. Erskine for the conclu-

sion of an arrangement on the matter to which it related, was then for the first time made to this Government. And it was added, that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made.

In my letter of the 1st inst., adverting to the repetition in your letter of the 23d ult., of a language implying a knowledge in this Government, that the instructions of your predecessor did not authorize the arrangement formed by him, an intimation was distinctly given to you, that, after the explicit and peremptory asseveration that this Government had not any such knowledge, and that with such a knowledge such an arrangement would not have been made, no such insinuation could be admitted by this Government.

Finding that, in your reply of the 4th inst., you have used a language which cannot be understood but as reiterating, and even aggravating, the same gross insinuation, it only remains, in order to preclude opportunities which are thus abused, to inform you that no further communications will be received from you, and that the necessity of this determination will, without delay, be made known to your Government. In the mean time a ready attention will be given to any communications affecting the interests of the two nations, through any other channel that may be substituted.

I have the honor to be, &c.,

R. SMITH.

Well, sir, what does Mr. Jackson say, through Mr. Oakley, in reply to the enumeration of facts which is contained in Mr. Smith's letter? He says, "that Mr. Jackson has seen, with much regret, that facts, which it has been his duty to state in his official correspondence, have been deemed by the American Government to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with the Minister charged by his Sovereign with that negotiation, so interesting to both nations, and on one point of which an answer has not even been returned to an official and written overture." Is not this a satisfactory answer to the labored speech of the gentleman from Massachusetts? Mr. Jackson does not pretend that he was misunderstood, or misstated by Mr. Smith. He merely regrets that the facts, which it had been his duty to state, were deemed a sufficient motive for breaking off an important negotiation. It is tacitly admitted that he had charged this Government with a knowledge that the despatch of the 23d of January was the only despatch by which the conditions were prescribed to Mr. Erskine on the subject to which it related. That, with this knowledge, the President had collusively induced Mr. Erskine to substitute the arrangement of April, "in lieu of the conditions originally proposed;" and, that, under these circumstances, His Majesty had an undoubted and incontrovertible right to disavow that arrangement, but he regrets that these facts, which it had been his duty to state, should be deemed by the American Government to afford a sufficient motive for breaking off an important negotiation.

Sir, I do not believe if Mr. Jackson was now at the bar of the House, that in his own defence, he would descend to retract these insulting charges. Nay, I go further; I do not believe he would feel himself authorized to retract them under any circumstances. To these facts, says Mr. Jackson, "I have scrupulously adhered, and in so doing I must continue, whenever the good faith of His Majesty's Government is called in question." How far the knowledge which this Government possessed, at the time the agreement was disavowed, is connected with a justification of the act, remains for the gentleman from Massachusetts to show. "It is only the fraud which has given rise to the contract that may give occasion for the rescision of it;" and, according to the premises assumed by the gentleman, it follows that if this Government knew the extent of Mr. Erskine's powers, at the time the disavowal of His Majesty was made known, ergo, the agreement was fraudulent and void, *ab initio*. I leave the gentleman to reconcile these absurdities. But it has been said, that the threat which the resolution contains will be an effectual barrier to further negotiation. Mr. Jackson has, indeed, alleged that his dismissal put an end to an important negotiation; but the most superficial view of this correspondence must satisfy every man that such is not the fact. Mr. Canning, as early as the 27th of May, informs us that Mr. Jackson is to proceed to America, "not on any special mission, which Mr. Erskine was not authorized to promise, except upon conditions—not one of which he has obtained;" and notwithstanding every gentleman has warmly protested against these conditions, they seem to have forgotten that Mr. Jackson has expressly made their adoption the ultimatum of his Government—the event on which he is authorized to conclude a treaty. And this, sir, is the important negotiation which has terminated with the mission of Mr. Jackson, and which gentlemen fear will not again resuscitate. We are required by this resolution to give a pledge to the American people, and to the world, to "stand by and support the Executive Government in its refusal to receive any further communications from Francis J. Jackson." What answer shall we give to this proposition? Shall we say to the American people, to Great Britain, and to the world, that we will not stand by and support the Executive Government in that refusal? Let us consider the consequences of such a step in the present crisis.

The President of the United States has requested His Majesty to recall the offending Minister, from whom he refuses to receive further communications. That Minister has doubtless given to his transactions here a coloring favorable to the part he has acted, and his representations will beat in unison with the wishes of his Sovereign. And, sir, at the very moment when these despatches form the subject of consultation in the British Cabinet, a transcript from your journals announces the determination of the Representatives of the people not to support the conduct of the President in his refusal to receive fur-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

ther communications from Mr. Jackson. Is it to be expected that, under these circumstances, the request of the Executive would command the respectful attention which its importance to the welfare of the nation really demands? So far from attending to that request, the President would be told, "that he had insulted the Minister of a great and powerful nation, while in the legitimate discharge of his official functions; and that upon a solemn appeal to the most popular branch of the American Government, they had refused to stand by and support him in the attitude which he had assumed towards that Minister. If, then, you cannot find support within the walls of your own Capitol, it is unreasonable in you to expect His Majesty to listen to your request." Mr. Jackson might be recalled, but the breach between the two nations would receive a more portentous aspect by a demand from the British Government of ample atonement for the insult he had received in his ministerial character, notwithstanding the solemn declarations of the Executive to the contrary. And, sir, all the consequences which gentlemen seem to anticipate from the adoption of the resolution would unavoidably flow from its rejection. We should, in that case, say to the American people, and to the world, that we will not "call into action the whole force of the nation, should it become necessary, in consequence of the conduct of the Executive department in this particular," nor "repel future insults if they should be offered." And is there any honorable member on this floor who is prepared to say, that he will not call into action the whole force of the nation if it should become necessary? That he will not repel future insults if they should be offered? Sir, I should loathe my country if such degrading sentiments could receive the sanction of the National Legislature.

Whatever may be the fate of the resolution, it has my hearty approbation. It is the only support which the Constitution permits me to give it. But though my suffrage cannot be recorded, my hand and my voice shall be raised to defend the honor and independence of the nation so long as the vital spark shall continue to animate my bosom.

Mr. RHEA, of Tennessee.—Mr. Speaker, it is not deemed necessary in the observations I will make on the resolution under consideration to take into view any relations of the United States with Great Britain or France, because it does not clearly appear that any exist, except in this, that the United States are suffering loss and damage. If there be any relations with Great Britain, as they respect the United States, they are negative and suffering; as they respect Great Britain, positive and active. Be they what they may, they are not properly within the range of a discussion on this resolution, which merely respects the conduct of an Ambassador Extraordinary and Minister Plenipotentiary of His Britannic Majesty near the United States. How the relations, if there be any, between the United States and France are connected with the subject of this

resolution, will require the greatest civilian, the most wise master of public law, to discover; the consideration of these subjects, except so far as mentioning only circumstances which have existed, will be omitted. Neither does it appear very necessary to recur, in examining this question, in the view I intend to take of it, to writers or authorities, as they are called, on public law or laws of nations, because, if any time heretofore, there was a public law acknowledged and practised by all civilized nations, that law is, in these times, become obsolete and disused; and the great nations of the old world have severally adopted particular systems of law respecting other nations, adapted to their own several existing circumstances, and bottomed on principles different from those which heretofore were denominated principles of public law. When, therefore, in the course of these observations, said Mr. R., I may use the words "public law," my intention is to express thereby an idea of some system named public law, not the law of nature, which, gradually becoming obsolete, has been very little, if any, in use since the commencement of the American Revolution—a system which, notwithstanding it is often appealed to, if ever it did exist, is now only to be found in books, and not in practice. Neither is it intended in this case to draw into notice any diplomatic proceedings many years heretofore transacted, by way of argument, in support of what I may say on the subject of this resolution; inasmuch as the truth and merits of it do rest and depend on the Message of the President of the United States, and the documents accompanying the same, and the other documents relative thereto, which have been received from him since the commencement of this session of Congress, together with some other documents relative to the arrangement of April last, made between the American Government and the honorable David Montague Erskine, late Ambassador Extraordinary and Minister Plenipotentiary from His Britannic Majesty, near the United States.

This resolution is not an answer to a Message from the President of the United States; there are not in it any words of relation between it and a message evidencing an expression or intended direction of that nature; neither are there in it any words manifesting an intention to transmit it to him as an address; for these and other reasons, which, if necessary, might be mentioned, it does not appear that this joint resolution can, with any propriety, be named an answer or response to a Message from the President, or an address to him. It may, therefore, be reasonably expected, that any objection raised against it, on the opinion of its being an answer to a Message from the President, or an address to him, will not prevail.

This resolution is not a declaration of war; it is predicated on a specified conduct of an Ambassador Extraordinary and Minister Plenipotentiary of His Britannic Majesty, near the Government of the United States, and on the denial of the Executive Government of the United States to receive any further communications

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

from him in consequence of that conduct. And it may be observed that, how ancient soever among nations the custom or usage of sending or receiving Ambassadors, Plenipotentiaries, and public Ministers of that kind may be, the custom or usage, it is reasonable to believe, is bottomed only on the great principle of humanity, and does not impose a perfect obligation either to send such Minister, or to receive him, or to continue him after being received; therefore, not to send an Ambassador, Plenipotentiary, or public Minister—not to receive such Minister—to recall such Minister—or to refuse to receive any further communications from such Minister, is not a just cause of war; and it follows that the acting or not acting, in either of the cases, is not a declaration of war. True it is, that the resolution states, that "the Congress of the United States do solemnly pledge themselves to the American people, and to the world, to stand by and support the Executive Government in its refusal to receive any further communications from the said Francis James Jackson, and to call into action the whole force of the nation, if it should become necessary, in consequence of the conduct of the Executive Government in this respect, to repel such insult, and to assert and maintain the rights, the honor, and the interests of the United States;" but, it is to be observed, that that pledge goes only to the doing of certain things which may become necessary in consequence of the conduct of the Executive Government in respect to that thing which is alluded to. But if any gentleman is disposed to continue to this resolution the name of answer to a Message from the President, or address to him, or to call it a declaration of war, he certainly may give it any name he pleases; and I hope, said Mr. R., that I may also have the liberty to give it a name that appears appropriate to it.

At the last session of Congress a resolution was proposed for consideration in this House, of the import following:

Resolved, That the promptitude and frankness with which the President of the United States has met the overtures of Great Britain towards the restoration of harmony and a free commercial intercourse between the two nations, receives the approbation of this House."

That resolution and the resolution now under consideration are not similar in cause, subject-matter, or effect. The cause assigned for that resolution was the frankness and promptitude of the President in meeting the overtures of Great Britain, which preceded the arrangement of April last, virtually implying that that Power had been, prior to that period, in the practice of making overtures of the same nature and extent to the Executive Government of the United States, but without effect. and, for that, virtually approbating the conduct of that Power; and that the Executive Government of the United States had not, prior to that period, been frank and prompt to meet such overtures of Great Britain, and that, therefore, it had not attended to the interest of the American people. That resolution in express

terms approbated the conduct of the President, and was intended, if adopted, to have been presented to him as an act of this House (but of this House) only, it not being a joint resolution of both Houses of Congress; the effect of that resolution, notwithstanding it ought so to have been, was not conclusive on Great Britain; it also was presented to the House of Representatives at a time when doubts, in consequence of the orders of April 26, existed whether Great Britain would, in good faith, perform the arrangement of April, made by Mr. Erskine with the United States; and the event has indubitably proved the propriety of not adopting that resolution.

The resolution under consideration respects the conduct of an Ambassador Extraordinary and Minister Plenipotentiary of His Britannic Majesty towards the Executive Government of the United States, and the act of that Government in consequence thereof; the cause and subject-matter of this resolution, after what has been said by gentlemen in support of it, require but little further elucidation; the act of the Executive Government is, in this case, complete, conclusive, and cannot be contested. It cannot, therefore, with good faith be said, that the disapprobation of that resolution presented at the last session of Congress, and the approbation of the resolution under consideration, argues a change of opinion, or a change of principle.

Against the adoption of this resolution, it has been urged that there is no precedent in nature of a joint resolution of both Houses of Congress for it, nor any precedent for it to be found in the acts and proceedings of any nation. Admit that to be so, it will prove nothing. It will be difficult, indeed, to find in the acts and proceedings of any nation a precedent (if one was necessary) to sanction and authorize the adoption of the Constitution of the United States; but the United States judged themselves to be sufficiently adequate to adopt that Constitution, and it was adopted. I will not, therefore, said Mr. R., trouble this House or myself to inquire about a precedent to sanction this resolution; for, if this be a new or novel case, (as has been intimated,) I am willing to assist. And it is certain that the United States, in Congress assembled, have power sufficient to make a precedent in this new case, which in future may be relied on in all cases of a similar nature. The resolution states:

"That the expressions contained in the official letter of Francis J. Jackson, Minister Plenipotentiary of His Britannic Majesty near the United States, dated the 23d day of October, 1809, and addressed to Mr. Smith, Secretary of State, conveying the idea that the Executive Government of the United States had a knowledge that the arrangement lately made by Mr. Erskine, his predecessor, in behalf of his Government, with the Government of the United States, was entered into without competent powers on the part of Mr. Erskine, for that purpose, were highly indecorous and insolent. That the repetition of the same intimation in his official letter dated the 4th of November, 1809, after he was apprized by the asseveration of the Secretary of State that the Executive Government had no such knowledge, and that if it had possessed such knowledge, such arrange-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

ment would not have been entered into on the part of the United States; and after also being officially apprized that such intimation was inadmissible, was still more insolent and affronting; and in refusing to receive any further communications from him, in consequence of these outrageous and premeditated insults, the Executive Government has manifested a just regard to its dignity and honor, as well as to the character and interest of the American people. That the letter signed 'Francis J. Jackson,' headed 'Circular,' dated the 13th November, 1809, and published through the country, is a still more direct and aggravated insult and affront to the American people and their Government, and it is evidently an insidious attempt to excite their resentment and distrust against their own Government, by appealing to them, through false or fallacious disguises, against some of their acts; and to excite resentments and divisions amongst the people themselves, which can only be dishonorable to their own characters and ruinous to their own interests. And the Congress of the United States do hereby solemnly pledge themselves to the American people, and to the world," &c.

Mr. Jackson, in his official letter of the 4th of November, 1809, to the Secretary of State of the United States, uses the following remarkable expression: "But, as to the propriety of my allusions, you must allow me to acknowledge only the decision of my own Sovereign, whose commands I obey, and to whom alone I can consider myself responsible."

Here, then, Mr. Jackson clearly intimates, that as to the propriety of his allusions, he obeys the command of his Sovereign, whose decision only, in respect to the propriety of his allusions he acknowledges; and to whom alone, in respect to the propriety of his allusions, he considered himself responsible. The propriety of this construction of that remarkable expression will not be doubted, inasmuch as every general one contains all the particulars. It follows, then, that the Sovereign of Mr. Jackson is a party in the allusion of Mr. J. and consequently that His Britannic Majesty's Government and the United States are parties to the case stated in the resolution. This case having originated from the conduct of a Minister Plenipotentiary from one sovereign Power to another, and as all civilized nations are interested in the conduct of their Plenipotentiaries and public Ministers, it may truly be said, that all the civilized nations of the world are interested in the case contained in the resolution under consideration. It is therefore necessary that this case, novel as is said in the United States of America, be made known to all the civilized nations in the world. This resolution is for that purpose, and that all the civilized nations in the world may know what the decision is; that the Senate and House of Representatives of the United States of America, in Congress assembled, do pronounce on it. This resolution, therefore, may properly be named a *manifesto*.

Immediately on reading this resolution, a question of the greatest importance presented itself—that is, is this resolution, or, in other words, are the matters therein stated and alluded to, true? For, if they be not true, it was not right to refuse to receive any further communications from Mr.

Jackson, Minister Plenipotentiary of His Britannic Majesty. The character of the Executive Government of the United States is well known to be mild, amiable, peaceable, and just; it is presumed that the Government, possessing these qualities, would not have refused to receive any further communications from the same Minister Plenipotentiary without just cause. What is that cause? The resolution states "that the expressions contained in the letter of Francis J. Jackson, Minister Plenipotentiary of His Britannic Majesty near the United States, dated the 23d day of October, 1809, and addressed to Mr. Smith, Secretary of State, conveying the idea that the Executive Government of the United States had a knowledge that the arrangement lately made by Mr. Erskine, his predecessor, in behalf of his Government, with the Government of the United States, was entered into without competent powers on the part of Mr. Erskine for that purpose, were highly indecorous and insolent. That the repetition of the same intimation, in his official letter dated the 4th of November, 1809, after he was apprized by the asseveration of the Secretary of State that the Executive Government had no such knowledge, and that if it had possessed such knowledge, such arrangement would not have been entered into on the part of the United States, and after also being officially apprized that such intimation was inadmissible, was still more insolent and affronting."

In order to manifest the truth of this statement, it will be necessary to examine and recite some parts of the official correspondence between the Secretary of State and Mr. Jackson.

The Secretary of State, in his official letter of the 8th of November, 1809, to Mr. Jackson, after stating that in his letter of the 19th of October he had stated to Mr. Jackson that the declaration in Mr. Jackson's letter of the 11th, that the despatch from Mr. Canning to Mr. Erskine of the 23d January was the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, was then for the first time made known to this Government. And it was added that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made. And that in his letter of the 1st of November, adverting to the repetition in Mr. Jackson's letter of the 23d of October, of a language implying a knowledge in this Government that the instructions of his predecessor did not authorize the arrangement, an intimation was distinctly given to Mr. Jackson that, after the explicit and peremptory asseveration that this Government had not any such knowledge, and that with such knowledge such an arrangement would not have been made, no such intimation could be admitted by this Government. The Secretary then proceeds to state: "Finding that in your reply of the 4th instant, you have used a lan-

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

'guage which cannot be misunderstood, but as
'reiterating and even aggravating the same gross
'insinuation, it only remains, in order to preclude
'opportunities which are thus abused, to inform
'you that no further communications will be re-
'ceived from you, and that the necessity of this
'determination will, without delay, be made
'known to your Government."

Mr. Jackson, in his official letter of the 4th of
November, 1809, to the Secretary of State, being
the letter alluded to by Mr. Smith in his letter of
the 8th of November, 1809, after other matters,
states, "but as to the propriety of my allusions,
'you must allow me to acknowledge only the de-
'cision of my own Sovereign, whose commands
'I obey, and to whom alone I consider myself re-
'sponsible; beyond this, it suffices that I do not
'deviate from the respect due to the Government
'to which I am accredited.

"You will find, in my correspondence with
'you, I have carefully avoided drawing conclu-
'sions that did not necessarily follow from the
'premises advanced by me, and least of all should
'I think of uttering an insinuation where I was
'unable to substantiate a fact. To facts, such as
'I have been acquainted with them, I have scru-
'pulously adhered, and in so doing I must con-
'tinue, whenever the good faith of His Majesty's
'Government is called in question, to vindicate
'his honor and dignity in the manner that ap-
'pears to me best calculated for that purpose."

What are those premises and conclusions?
What is that insinuation which he should not
think of uttering where he was unable to sub-
stantiate a fact? What are those facts, such as
he had been acquainted with them, that he scru-
pulously adhered to, and must continue so to do,
whenever the good faith of His Majesty's Gov-
ernment is drawn in question, which he (Mr.
Jackson) intimates, in order to manifest that His
Majesty's Government did not violate good faith
by the disavowal of the arrangement made by
his predecessor, Mr. Erskine, with the Govern-
ment of the United States?

The expressions in this part of Mr. Jackson's
letter of the 4th of November, are dark and ob-
scure, but are capable of illustration, and, when
illustrated, will furnish evidence that Mr. Jack-
son did impute to the Government of the United
States a knowledge that, at the time his prede-
cessor, Mr. Erskine, made the arrangement of
April with the Government of the United States,
Mr. Erskine was not authorized by his Govern-
ment to make that arrangement.

Mr. Jackson states, in his official letter of the
11th of October, 1809, to Mr. Smith: "It is my
'duty, sir, solemnly to declare to you, and through
'you to the President, that the despatch from Mr.
'Canning to Mr. Erskine, which you have made
'the basis of an official correspondence with the
'latter Minister, and which was read by the former
'to the American Minister in London, is the only
'despatch by which the conditions were prescrib-
'ed to Mr. Erskine for the conclusion of an ar-
'rangement with this country on the matter to
'which it relates."

To which the Secretary of State, in his letter
of the 19th of October, 1809, to Mr. Jackson
states the declaration, "that the despatch, from
'Mr. Canning to Mr. Erskine, of the 23d Janua-
'ry, is the only despatch by which the conditions
'were prescribed to Mr. Erskine for the conclu-
'sion of an arrangement on the matter to which
'it relates," "is now for the first time made to
'this Government, and I need hardly add, that if
'that despatch had been communicated at the
'time of the arrangement, or if it had been known
'that the propositions contained in it, and which
'were at first presented by Mr. Erskine, were the
'only ones on which he was authorized to make
'an arrangement, the arrangement would not
'have been made."

This asseveration of the Secretary of State—
taking into view the character of the American
Government, so well known for its undeviating
adherence to candor, sincerity, and truth—ought
to have satisfied and put forever at rest the mind
of Mr. Jackson, relative to the points and insinua-
tions against the correctness whereof this assever-
ation was made. But, no, the mind of Mr. Jack-
son was not to be satisfied. A disposition to ac-
knowledge truth, when presented to his view at
that time, does not appear to be within the range
of his excellent qualifications. Something other
than truth must, if possible, by some means or
other, be directly or indirectly drawn from the
American Government. What matter is that
which Mr. Jackson is so anxious about? Only
this, that the American Government (contrary to
the truth and real state of the case) might, by the
diplomatic acts of the experienced Mr. Jackson,
be drawn in to admit, directly or indirectly, that
it was possessed of a knowledge, at the time the
arrangement of April was made, between Mr. Er-
skine and the American Government, that Mr.
Erskine was not, on his part, authorized by his
Government to make that arrangement. It may
be well to inquire what are those allusions—what
are those premises—what are those conclusions—
what is that insinuation—and what is that fact—
which this accomplished diplomatist mentions in
his letter of the 4th November; on the enumera-
tion of which he rests with so much apparent
pleasure—to which he, indeed, without reason and
justice did adhere.

Mr. Jackson, in his letter of the 23d of October,
1809, after acknowledging the receipt of the letter
of the Secretary of State, of the 19th of the same
month, which contained the asseveration alluded
to, and stating some matters, observes: "I have,
'therefore, no hesitation in informing you, that
'His Majesty was pleased to disavow the agree-
'ment concluded between you and Mr. Erskine,
'because it was concluded in violation of that
'gentleman's instructions, and altogether without
'authority to subscribe to the terms of it. These
'instructions, I now understand by your letter, as
'from the obvious deduction which I took the
'liberty of making in mine of the 11th instant,
'were, at the time, in substance, made known to
'you. No stronger illustration, therefore, can be
'given of the deviation from them, which occur-

DECEMBER, 1809.

Conduct of the British Minister.

H. of R.

'red, than by a reference to the terms of your agreement."

Let the letter of the Secretary of State, of the 19th October, 1809, be read and examined, with the most critical attention, and it will be found impossible to discover in that letter any expression which can in the least sanction the opinion insinuated by Mr. Jackson, viz: that the American Government, at the time that the arrangement was made with Mr. Erskine, possessed a knowledge that Mr. Erskine was not authorized by his Government to make that arrangement. In this paragraph, Mr. Jackson intimates that he understood, by that identical letter of the 19th of October, that the substance of the instructions of Mr. Erskine were submitted to the Secretary of State. Mr. Smith, in that letter, with great candor, observes: "Certain it is, that your predecessor did present for my consideration the three conditions which now appear in the printed document." A man in search of truth would not believe, and far less would he endeavor to impose a belief on others, that the whole instructions of Mr. Erskine were, at the time, in substance, made known to Mr. Smith. Mr. Erskine himself, in his letter dated August 14, 1809, expressly declares that he considered that it would be in vain to lay before the Government of the United States the despatch in question, (that is, the despatch of the 23d of January,) which he was at liberty to have done, *in extenso*, had he thought proper. If, then, Mr. Erskine did not think proper to lay that despatch *in extenso* before the American Government, a man in search of truth will not utter an insinuation that the American Government did at the time know the substance of it. The character of Mr. Erskine is well established for his adherence to truth—will not be impeached by an insinuation that he did contrary to what he himself declares he did do. If this be one of Mr. Jackson's facts, to which he will adhere in vindication of the good faith of His Majesty's Government, it would be well for him to adduce other evidence to support it, otherwise the good faith of His Majesty's Government will rest on as bad a foundation as this one of Mr. Jackson's facts.

But, Mr. Jackson, in the paragraph of his letter of the 23d of October, before alluded to, observes: "These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were at the time, in substance, made known to you." Here it may be inquired, what is that obvious deduction, which conveyed that convincing evidence to the very discerning intellect of Mr. Jackson?

In Mr. Jackson's official letter, of the 11th of October, he observes: "In the records of my mission there is no trace of a complaint, on the part of the United States, of His Majesty having disavowed the act of his Minister. You have not, in the conferences we have hitherto held, distinctly announced any such complaint; and I have seen with pleasure, in this forbearance on your part, an instance of that candor which I doubt not will prevail in all our communications,

'inasmuch as you could not but have thought it unreasonable to complain of the disavowal of an act done under such circumstances as could only lead to the consequences that have actually followed."

This paragraph of Mr. Jackson's letter contains some of his allusions, premises, conclusions, insinuations, and facts, to which in his letter of the 4th of November he alludes, and which he must scrupulously adhere to in vindication of the good faith of His Majesty's Government. In this paragraph he intimates that in the records of the British mission there was no trace of a complaint on the part of the United States of His Britannic Majesty having disavowed the act of his Minister; and because there was no such trace, there was no such complaint on the part of the United States. It is, however, a known fact, that that disavowal was complained of from East to West, from North to South, and from one extremity of the United States to the other. Mr. Jackson also insinuates that the Secretary of State, in the conferences held with him, did not distinctly announce any such complaint. Distinctly! The word *distinctly*, with Mr. Jackson, might have a meaning—it is, in diplomatic language, a very indefinite word. If the Secretary of State did not absolutely announce any such complaint, why did not Mr. Jackson in direct terms say so, without using the word *distinctly*? In this, it may be fairly inferred that the Secretary of State did announce a complaint of His Majesty having disavowed the act of his Minister; but it being only in a verbal conference, Mr. Jackson did not think proper, when he was obliged to clothe his ideas with visible signs on paper, to acknowledge that Mr. Smith had distinctly announced such complaint. Such an acknowledgment would not have suited Mr. Jackson's plan of insinuations, premises, conclusions, and facts, which he was determined to adhere to in vindication of the good faith of His Britannic Majesty's Government. This word *distinctly* may have afforded one reason to break off verbal communications with Mr. Jackson. Mr. J. having intimated that on the records of the mission there was no trace of complaint on behalf of the United States of His Britannic Majesty having disavowed the act of His Minister, and that Mr. Smith, in the conferences, had not "distinctly" announced any such complaint, assumes these insinuations for premises, and then proceeds, on his plan of insinuation, to infer that forbearing to complain was an instance of candor on the part of Mr. Smith; that that candor caused Mr. Smith to think it unreasonable to complain of the disavowal of the act, and he did not complain of the disavowal of the act, because it was done under such circumstances as could only lead to the disavowal of the act. This is the substance of the reasoning of Mr. Jackson, bottomed on the insinuation that no complaint was made on the part of the United States of His Britannic Majesty having disavowed the act of his Minister. And these are some other of the allusions, premises and conclusions, insinuations and facts, which Mr. Jackson must continue to adhere to in vindication of

the good faith of His Majesty's Government. With respect to the insinuations, that on the record of the mission there is no trace of complaint, and that Mr. Smith in the conferences had not "distinctly" announced any such complaint. Mr. Smith, in his official letter of the 19th of October, 1809, observes: "If there be no trace of complaint against the disavowal in the archives of the mission, it is because this Government could not have entertained such complaint before the reasons for the disavowal had been explained, and especially as the explanations were justly and confidently expected through the new functionary. And as to the supposed reserve on my part on this subject in our several conferences, I did imagine that my repeated intimations to you of the necessity of satisfactory explanations as to the disavowal, were sufficient indications of the dissatisfaction of this Government with respect to the disavowal itself." This plain, candid statement of the Secretary, at once sweeps away the foundation of the fanciful structure of insinuations, allusions, premises and conclusions, built by Mr. Jackson on his insinuation of no complaint.

Respecting the business of explanation, which Mr. Jackson was often requested by the Secretary to make, Mr. J., in his official letter of the 11th of October, 1809, observes: "As to the expectation entertained here, that the explanation of His Majesty's share in the transaction should be made through me, I might content myself with simply observing, that I was not provided with instructions to that effect, because it was known that the explanation in question was already given."

Mr. Canning, in his letter dated May 27, 1809, to Mr. Pinkney, observes: "Having had the honor to read to you *in extenso* the instructions with which Mr. Erskine was furnished, it is not necessary for me to enter into any explanation of those points in which Mr. Erskine has acted not only not in conformity, but in direct contradiction to them. Such observations will be communicated more properly through the Minister whom His Majesty has directed to proceed to America."

In this business of explanation, therefore, it appears, by Mr. Jackson's statement, that he was not provided with instructions to make explanations; and Mr. Canning states that such observations (that is, explanations) will be communicated more properly through the Minister whom His Majesty has directed to proceed to America, as the successor of Mr. Erskine. Mr. Jackson was that Minister. Between Mr. Canning and Mr. Jackson, therefore, the question of explanations remain. So much for Mr. Jackson's insinuation respecting no complaint.

Mr. Jackson, in his letter of the 11th of October, 1809, to the Secretary of State, after admitting that Mr. Erskine had not communicated his instructions *in extenso* to the Government of the United States, observes: "But, in reverting to his official correspondence, and particularly to a despatch of the 20th April, addressed to His Majesty's Secretary of State for Foreign Affairs, I find that he there states that he had submitted

to your consideration the three conditions specified in those instructions, as the groundwork of an arrangement, which, according to information received from this country, it was thought, in England, might be made with a prospect of great mutual advantage."

In respect to the insinuation, contained in the words "As the groundwork of an arrangement, which, according to the information received from this country, it was thought in England might be made with a prospect of great mutual advantage," it would have been better if Mr. Jackson had stated explicitly how that information was derived. He does not state it as from Mr. Erskine; and Mr. E., in his letter of the 14th August, 1809, to the Secretary of State, observes: "But I certainly never received any assurances from the American Government that they would pledge themselves to adopt the conditions specified in Mr. Canning's instructions as preliminaries, nor did I ever hold out such an expectation to His Majesty's Government." And Mr. Erskine, in that letter, further observes: "As to the third condition referred to by you, specified in Mr. Canning's instructions, I have only to remark, that I never held any conversation with the Government of the United States relative to it, until the late negotiation, nor had ever mentioned the subject to His Majesty's Government, it having for the first time been presented to my consideration in Mr. Canning's despatch to me of the 23d January, in which that idea is suggested, and is stated to have been assented to by Mr. Pinkney." Mr. P., in the account he gives of an unofficial conversation held between him and Mr. Canning on the 18th, and continued on the 22d of January, 1809, states, that in that conversation, Mr. Canning suggested to him that he (Mr. C.) presumed that the Government of the United States would not, after it had itself declared a commerce with France &c. illegal, and its citizens who should be engaged in it delinquents; and after having given to Great Britain by compact an interest in the strict observation of the prohibition, complain, if the naval force of this country should assist in preventing such a commerce." And Mr. Pinkney, in his letter of the 23d of June, 1809, after observing he had an interview yesterday with Mr. Canning, states: "In conversing upon the third condition, I said a very few words. I restated what I had thrown out upon the matter of it in an informal conversation in January, and expressed my regret that it should have been misapprehended."

By the foregoing, it appears, that the third condition, in place of information having been received respecting it from America, originated with Mr. Canning himself. This pretended information, it is presumed, is one of Mr. Jackson's facts or circumstances. Information, proceeding from the American Government, intimating that America is willing to renounce, during the present war, the pretension of carrying on in time of war all trade with the enemy's colonies, from which she was excluded in time of peace, cannot be proved to have gone to England. Let all the documents be

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

read—no proof on that point from them can be adduced. That which, in the despatch of the 23d January, is stated to be the first condition, is, except the last clause respecting France, the same in principle with that which is contained in the non-intercourse act, as it refers to renewing commerce and free intercourse with Great Britain. To that part of the first condition no exception appears to be made; but the clause respecting France never was intended to be admitted in the nature of a compact. In that case, Great Britain ought to have confided in the good faith of the United States; but it appears, by the addition of that clause, that Great Britain intended to provide against what, according to the policy of His Majesty's Government, was deemed the ill faith of the United States; and there can be no doubt of the dishonoring principle contained in that clause having originated from the same source with the others. By this view of the subject, the true origin of some other of Mr. Jackson's facts and circumstances may be discovered.

Mr. Jackson, progressing with his letter of the 11th October, to the Secretary of State, further observes: "Mr. Erskine then reports, *verbatim et seriatim*, your observations on each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you, that these latter were an equivalent for the original conditions; but the very act of substitution evidently shows that those original conditions were in fact very explicitly communicated to you, and by you of course laid before the President for his consideration. I need hardly add, that the difference between these conditions and those contained in the arrangement of the 18th and 19th April, is sufficiently obvious to require no elucidation; nor need I draw the conclusion, which I consider as admitted by all absence of complaint on the part of the American Government, viz: that, under such circumstances, His Majesty had an undoubted and incontrovertible right to disavow the act of his Minister."

Mr. Jackson, in his letter of the 23d of October, 1809, to the Secretary of State, after observing: "Nothing can be more notorious than the frequency with which, in the course of a complicated negotiation, Ministers are furnished with a gradation of instructions, on which they may be successively authorized to conclude"—states: "It does not strike me as bearing upon the consideration of the unauthorized agreement concluded here, inasmuch as, in point of fact, Mr. Erskine had no such graduated instructions. You are already acquainted with that which was given, and I have had the honor of informing you that it was the only one by which the conditions on which he was to conclude were prescribed. So far from the terms which he was actually induced to accept, having been contemplated in that instruction, he himself states that they were substituted by you in lieu of those originally proposed." The connexion between this part of Mr. Jackson's letter of the 23d, and the last part of his recited letter of the 11th of the

same month, (October,) is remarkably striking. Mr. Erskine is stated to have reported that he had submitted to Mr. Smith the three conditions specified in the instructions, and the observations of Mr. Smith on each of them, with the reasons which induced Mr. S. to think that others might be substituted in lieu of them. Mr. Jackson then infers that Mr. Smith and Mr. Erskine may have concluded that these latter were an equivalent for the original conditions, and afterwards asserts: "But the very act of substitution evidently shows that the original conditions were in fact very explicitly communicated to Mr. Smith, and by him of course laid before the President for his consideration," and adds, that "The difference between these conditions, and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation."

It may here be proper again to notice, that Mr. Jackson, in his letter of the 23d of October, after stating that Mr. Erskine had no graduated instructions, observes: "You are already acquainted with that which was given, and that it was the only one by which the conditions on which he was to conclude were prescribed. So far from the terms which he was actually induced to accept having been contemplated in that instruction, he himself states that they were substituted by you in lieu of those originally proposed." Here, then, at last, Mr. Jackson comes out plain. He does not himself state that Mr. Smith submitted the conditions, but Mr. Erskine is made to do that. Now if Mr. Erskine in any letter stated that Mr. Smith substituted the conditions, that must have been known to Mr. Jackson prior to the date of his letter of the 11th of October; and was taken into consideration, but not expressed, at the time of writing that letter. Mr. Jackson, then—taking all these his insinuations, arising from no complaint being (as he insinuates) made, and the statements respecting substitution, which Mr. Erskine is stated to make—works out an insinuation, not plainly expressed, that Mr. Smith must have seen all the instructions *in extenso* of Mr. Erskine; and that, having seen the instructions *in extenso* he (Mr. S.) must have known that Mr. E. was not, on his part, authorized to make the arrangement of April; and from this collection of insinuations, premises, conclusions, and facts, all arising from the creative fancy of Mr. Jackson, he observes: "Nor need I draw the conclusion, which I consider as admitted by all absence of complaint on the part of the American Government, viz: that, under such circumstances, His Majesty had an undoubted and incontrovertible right to disavow the act of his Minister."

From what has been said on this subject, and by Mr. Jackson's own statement of what he calls allusions, insinuations, premises, conclusions, and facts, it is evident what they were which he is pleased to call circumstances—"such circumstances as could only lead to the consequences that have actually followed;" that is, the disavowal of the arrangement. And these are the circumstances to which Mr. Jackson must adhere to vindicate the good faith of His Majesty's Gov-

ernment. It must however be deemed extraordinary, and indeed it is hardly possible to believe, that Mr. Erskine ever stated in any letter that Mr. Smith had substituted conditions in lieu of the original. To believe so, is to believe that Mr. Erskine, contrary to the duty and allegiance he owed his own Government, suffered himself to be imposed on. No man possessing even less than common sense can believe so. Taking into view, also, that Mr. Erskine expressly declares that he thought it would be in vain to lay his instructions *in extenso* before the American Government, it may be fairly (though not according to Mr. Jackson's diplomatic mode of reasoning) inferred that those things he called *circumstances*, were and are, if such intuities can be termed in existence, the mere creatures of the imagination of Mr. Jackson; and that the imputation by him alleged against the Executive Government of the United States is not true. But, sir, this will be more evidently apparent, when it is made appear, that in the arrangement of April, there is no substitution of conditions. In addition to what has already been observed respecting the detestable project of Mr. Jackson, the object of which was to fix on the Executive Government of the United States an imputation of a knowledge, that, at the time of making the arrangement of April, Mr. Erskine on his part was not by his Government authorized to make that arrangement, there is not only the asseveration of the Secretary of State, proving that the Executive Government did not possess that knowledge, but the President, in his Message of the 29th November, 1809, gives further information relative thereto—not in his private character as an individual, but as James Madison, President of the United States. The President observes: "The correspondence between the 'Department of State and this Minister will show how unessentially the features presented in its commencement have been varied in its progress. 'It will show also, that forgetting the respect due to all Governments, he did not refrain from imputations on this, which required that no further communications should be received from him.'" What imputation does the President allude to? That same imputation mentioned in the correspondence. Having noticed this statement of the President respecting Mr. Jackson's conduct, I was induced, said Mr. R., in the few observations which I made at first on the subject of this resolution, to intimate that certainly no gentleman in this House would attempt to justify Mr. Jackson, or even to palliate his conduct. But, sir, notwithstanding this asseveration of the Secretary of State—notwithstanding the declaration of the President—attempts are made not only to palliate, but to justify the conduct of this same Mr. Jackson! What shall be said to this? Will gentlemen give more credit to the dark, obscure statements of this foreign Minister than to the plain, open, candid statements of the Secretary of State, and the easy-to-be-understood declaration of the President? It appears they do; and it is strange—wondrous strange, indeed—how this can be!

It appears to me, said Mr. R., that the matters stated in the resolution are true, and that Mr. Jackson was justly, and for good cause, refused by the Executive Government to be any further communicated with. Truth, candor, and sincerity, are necessary requisites in transacting the affairs of human life, between man and man, in their individual concerns. Nations in their moral capacity being as individuals, the same requisites are necessary in conducting their affairs in settling their differences, and bringing them to an issue mutually beneficial. It is to be lamented, that in these times, the business of a Minister Plenipotentiary appears to be to involve the differences in more difficulty—to delay and to procrastinate. In ancient times it was otherwise: truth, candor, and sincerity, presided in the councils of Ministers Plenipotentiary. I would not, said Mr. R., be supposed to include all public Ministers within the range of this observation: there are amongst them men who do honor to human nature, and who, by the practice of candor, sincerity, and truth, build up for themselves monuments more lasting than marble—more durable than brass. It has been asked, what supports our Ministers abroad? The answer is plain: truth, candor, and sincerity, supports them. The preservation of the peace, happiness, and prosperity, of nations, in a certain degree, depends on the conduct of public Ministers. It is therefore the more necessary that the conduct of public Ministers should be regulated by those rules of propriety, virtue, and morality, by which alone their conduct can be adorned.

Admitting the matters and things stated in the resolution to be true, (and it is expected that that is established beyond contradiction,) another question presents itself for consideration—that is, may a Minister Plenipotentiary, or any public Minister, with impunity, abuse and impute untruths to the Government to which he is accredited?

That the maxims of public law and the general usages of civilized nations would be marshalled in array against this resolution was not expected; neither was it expected that the United States of America, in Congress assembled, would be denied to be competent to the decision of the question; neither was it expected that it would be deemed necessary—although Mr. Jackson, at the time, was Minister Plenipotentiary of His Britannic Majesty—to summon all the civilized nations of the world to convene and form a tribunal to decide it. As to the maxims of public law—if there be any book containing a system of public law, as it is called, and that has been sanctioned, authorized, and practised on by general consent of all civilized nations—let it be produced and examined, whether it contains a maxim authorizing a Minister Plenipotentiary to abuse and impute to or insinuate untruths against the Government of the nation to which he is accredited, and that will justify or even palliate him in that conduct. If a book containing a system of public law so sanctioned cannot be found, (and it is presumable it never can or will; at least respecting time past,) then let the famed *Grotius*, and the

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

celebrated writers on public law, as it is called, be produced and examined, whether they or any of them assert such a maxim, or one anywise near to it. The search will be useless. Virtue, morality, and piety, are the grand principles on which each of them has erected his superstructure. But, if there be any such maxim, when, where, and how was it practised on? To attempt to destroy and overwhelm this resolution with the weight of that which is called public law, does not appear to be treating it in the candid manner it ought to be. The attention of this House has also in this case been taken back to the celebrated Treaty of Westphalia—celebrated, indeed, and made almost sacred by the blood of the great and good Gustavus Adolphus, which flowed to establish it. And what did the great Convention of public Ministers of every grade from all the civilized nations of the Christian world, who formed the two treaties which were called the Treaty of Westphalia, do? Did that Convention of public Ministers establish a maxim of the kind alluded to? No, it did not. Virtue, morality, and piety—truth, candor, and sincerity—had influence in their deliberations. But, if it did, it certainly was a most unchristian maxim. But Christianity directs that we should not do that unto others which we would not have others do unto us.

But I had almost, not recollected, said Mr. R., to mention a treaty not noticed in the discussion of the resolution, namely, the Treaty of Pilnitz—it is more probable, that some kind of maxim going to sanction the conduct of Mr. Jackson towards the Executive of the United States may be found among the records of the treaty makers of that celebrated and very humane treaty, with more ease than in the records of those who formed the Treaty of Westphalia. There was another grand assemblage of treaty makers at Rastadt; but I forbear, said Mr. R. to pursue this point further, and conclude, that there is no maxim of the kind alluded to.

This question affects the United States materially, not as it respects Mr. Jackson in his individual character, but in his ambassadorial character, as Minister Plenipotentiary of His Britannic Majesty. If the United States in Congress assembled are not competent to render a judgment on the conduct of Mr. Jackson, because he is the Minister Plenipotentiary of His Majesty, the better way in that case would be to petition His Britannic Majesty to depute judges to the United States to decide here on the conduct of Mr. Jackson, for if he can only arrive in England, it is probable his conduct will be disavowed, and after some time Mr. Jackson will be advanced to some higher grade of honor, as Admiral Berkeley was after the attack on the United States' ship Chesapeake and the murder of part of her crew.

The United States are competent to decide on this question, and if they will not act on it, I would seriously advise, said Mr. R., to recall all our public Ministers from abroad, and send all foreign Ministers from the United States, and to determine never hereafter to receive any public

Minister of any grade from any foreign nation, and never hereafter to send any public Minister to any foreign nation, is the only mode to preclude the possibility of similar insults in future.

But it has been said, Mr. Jackson is the Minister Plenipotentiary of a powerful monarch—no less than His Britannic Majesty; well let it be so. Suppose Mr. Jackson was the Minister Plenipotentiary of some petty East Indian Rajah, whom His Britannic Majesty's Government permits to drag on a life chained in slavery, would the United States in that case be deemed competent? Mr. Jackson forgot the respect due to all nations; particularly that which was due from him to the sovereign people of the United States in the person of their President, and the Representatives of that sovereign people have power and are competent to decide on this question; and if any one will enter an appeal after the decision is made, let him do it.

This is, indeed, a serious and solemn question; all the civilized nations in the world are interested in it; not that all the civilized nations, (and if you please all the uncivilized nations in the world also) are drawn up a party on one side, and the United States on the other. The United States and Great Britain are parties in this question, and all the civilized nations in the world may be considered as spectators; taking no part in the dispute, but waiting with anxiety the termination of it. The question in dispute is, whether a public Minister may with impunity abuse, and impute untruths to the Government of the nation to which he is accredited? If he may, then as a principle, it must have been sanctioned by public law, and be obligatory on all civilized nations in the world; and, if so, then the resolution may be said to implicate principles which the whole civilized world has sanctioned; but who will say that that is a principle of public law, and that it has been sanctioned by all the civilized nations in the world? If a principle of that kind be intimated, let it be asserted boldly, and then it will be known what to say to it. If Mr. Jackson is in this case to be justified, he must be justified on principles of public law; if on principles of public law he cannot be justified, as it is contended he cannot, why are such strenuous efforts made to justify him?

The whole civilized world is a spectator in the discussion of this resolution; and all the civilized nations in the world are and will be anxiously desirous to know, whether the United States of America, after having hitherto, with impunity, suffered all the aggressions of Great Britain, and after having suffered Great Britain, with impunity, to impress thousands of their seamen, and retain them on board of their armed ships and vessels and compelling them to fight against nations with whom the United States are at peace; after having suffered Great Britain, with impunity, to murder their citizens, and after having suffered Great Britain with impunity to attack their sovereignty, in case of the Chesapeake frigate will, after all these outrages and hostile acts, tamely, meekly, and patiently, submit and bow down to to

the lowest degree of debased degradation, and suffer Francis J. Jackson, Ambassador Extraordinary and Minister Plenipotentiary of His Britannic Majesty, with impunity, to abuse their Executive Government, and to impute to it with impunity the detestable charge of untruth.

Mr. Jackson, in his official letters to the Secretary of State, frequently states, that he is not authorized to make any proposals to the Executive Government of the United States which might be a groundwork of friendly settlement of differences; not even instructed to make any rational and satisfactory explanations of the reasons which induced his Sovereign, whose command he obeys, to disavow the arrangement of April. Mr. Jackson states that he is instructed only to receive and discuss any overtures which the Government of the United States may make to him, and eventually to conclude a treaty. In his official letter of the 23d of October, 1809, to the Secretary of State; he expressly states, that his instructions are prospective; and observes, "it is not of course intended to call upon me to state, as a preliminary to negotiation, what is the whole extent of those instructions; they must, as I before said, remain subject to my own discretion, until I am enabled to apply them to the overtures which I may have the honor of receiving from you."

It has been stated in the course of this debate that the United States is a neutral nation; that is true—the United States have uniformly desired to be and remain neutral, and not to be involved in the wars of Europe. The United States, as a neutral nation, had a right, at least, to expect justice from Great Britain, but have not obtained it. Great Britain despoiled the commerce of the United States to the amount of many millions of dollars, and has not made restitution; Great Britain impressed thousands of the seamen of the United States and hitherto has refused to set them at liberty. Several citizens of the United States have been murdered, and Great Britain has not punished the murderers; Great Britain has violated the sovereignty of the United States in the case of the Chesapeake frigate; an arrangement, which was made by the upright and virtuous David Montague Erskine, Minister Plenipotentiary of His Britannic Majesty, with the United States, has been disavowed. With complete and perfect knowledge of all these aggressions, murders, imprisonment of seamen, and violations of the sovereignty and neutral rights of the United States, His Britannic Majesty has sent Francis J. Jackson, Esq., his Minister Plenipotentiary to the United States, with full powers to do—what? Nothing. For Mr. Jackson expressly, in his official letter to the Secretary of State, declares, that he is not instructed to make any proposals to the American Government; that his instructions are prospective, and only authorizing him to receive and discuss overtures which may be made to him by the Executive Government of the United States. Notwithstanding the British Government had a perfect knowledge of all these things, and notwithstanding it knew that the United States had with good faith carried into complete effect

on their part the arrangement of April, made by Mr. Erskine, Great Britain disavows that arrangement, recalls the virtuous and honest Minister, Mr. Erskine, and sends Francis J. Jackson her Minister Plenipotentiary to the United States, to do nothing. Mr. Jackson in his letter of the 11th of October, 1809, to the Secretary of State, declares, "that His Majesty is very sincerely desirous of maintaining a perfect and cordial understanding with the United States, and of bringing to a complete and satisfactory adjustment all the points of difference that have arisen between the two Governments." Is this true? And is His Britannic Majesty desirous—is he sincerely desirous? is he indeed very sincerely desirous of maintaining a perfect and cordial understanding with the United States, and of bringing to a complete and satisfactory adjustment all the points of difference that have arisen between the two Governments? If His Britannic Majesty is so disposed, and is very sincerely desirous of doing all these good things to the United States, what prevents him to set at liberty all the seamen of the United States whom he detains in slavery on board of his floating castles? What prevents him from ordering satisfaction to be made to the citizens of the United States for the many millions of dollars' worth of property, which has been taken from them by his armed ships under illegal and unjustifiable pretences? For what reason is it that he delays to order atonement to be made for the outrageous and murdering attack on the Chesapeake frigate? What were those strong and solid reasons which induced him to disavow the arrangement of April last, an arrangement which would, in all human probability, have operated as a groundwork for a complete and satisfactory adjustment of all points of difference that have arisen between him and the United States; and more especially as it had in good faith been carried into effect on the part of the United States? For what good reason did he recall Mr. Erskine, and send to the United States, as his Minister Plenipotentiary, Francis J. Jackson, with full powers, not to make proposals for accommodation to the United States but to receive and discuss such overtures as the United States by their Executive Government might make to him? And did His Britannic Majesty, being very seriously desirous to maintain a perfect and cordial understanding with the United States, expect that the United States, under existing circumstances, would make overtures to his Minister Plenipotentiary, Francis J. Jackson? Did not His Britannic Majesty fully and perfectly understand that the outrageous attack on the Chesapeake frigate (of the United States) stood an insuperable barrier in the way, and until atoned for, prevented and rigorously precluded all negotiation? What then, did His Britannic Majesty, possessed with the knowledge of all these things, send his Minister Plenipotentiary, Francis J. Jackson, with letters of credence and full powers to the United States to do? Nothing.

But His Britannic Majesty's Minister Plenipotentiary, with his full powers, has not been al-

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

together idle. He has done something—he has abused and insulted the Executive Government of the United States, and imputed untruths to it; and says he obeys the command of his Sovereign. And did Mr. Jackson believe that to abuse and impute untruths to the Executive Government of the United States was necessary to vindicate the good faith of His Britannic Majesty's Government? Did he believe he was under no obligation to proceed on principles of truth, candor, and sincerity, in his transactions with the Government of the United States? Did he believe or was he taught to believe that the United States had no truth, no honor, no dignity, no character, to maintain?

It is hardly possible to believe that Francis J. Jackson, Minister Plenipotentiary of His Britannic Majesty, so elegant, so polite, so accomplished, who had been by His Britannic Majesty so frequently honored with so many honorable appointments to several Powers of Europe; who appears to have a perfect knowledge of the elegance of expression that his native language is capable of, could have proceeded in the manner he did towards the Executive Government of the United States, if he had not been under the influence of some controlling power. What was the object, which by his conduct he appears to have borne in view, for the obtaining whereof he feared not to sacrifice that which he ought carefully to have preserved? It will be observed that the British Government had disavowed the arrangement made by Mr. Erskine with the United States, and by reason thereof, the good faith of His Britannic Majesty's Government might be or was drawn in question. To vindicate that faith it was necessary to make appear, by some means or other, that that arrangement was not made by Mr. Erskine in pursuance of his instructions, and that the Executive Government of the United States knew he was not authorized to make it. To obtain this end, it is observable that Mr. Jackson, in the course of his correspondence with the Secretary of State, has made strenuous efforts to bring again into view and to resume the objects of that arrangement in a way that would imply that the Executive Government of the United States was aware that the arrangement was not binding on the British Government, because made with a knowledge on the part of the Executive Government, that Mr. Erskine had no authority to make it. If Mr. Jackson had prevailed, the odium of the disavowal would have been thrown off from His Britannic Majesty's Government and fixed on the United States. Mr. Jackson then would have very honorably returned to his Sovereign, and would have deserved to have, by His Britannic Majesty's Government, been rewarded with a statue of gold; not such as that which a certain other personage was declared worthy of, but with one of pure gold, as large, as massy, as high, as solid and majestic as that one was which the mighty Nebuchadnezzar erected for his idol on the plains of Dura.

His Britannic Majesty's Government may have been persuaded to believe that there was not in

the American Government, energy sufficient to resist the diplomatic powers and artful stratagems of the selected Mr. Jackson; but truth is great and powerful, and will always prevail. The Executive Government of the United States maintained the honor and dignity of this nation, and did resist, and indignantly precipitated Mr. Jackson, Minister Plenipotentiary of His Britannic Majesty, from its presence, down to a level better comporting with his deservings. In him the proverb is verified; he was anxiously and perseveringly engaged, and busily employed in digging a pit wherein he might bury the honor, fame, and good name of the United States; and into that pit, he himself, with the weight of a world upon him, is plunged; and, from the bottom thereof, he may, with what pleasure he can, behold, at an immense distance, the high and exalted eminence on which he did stand.

But it has, by way of excuse, been intimated, that Mr. Jackson was forced to explain; and for that he ought to be excused. Well, then, let one other of his explanations be attended to, and examined.

In the note, dated November 13th, 1809, sent by Mr. Jackson through Mr. Oakley, to the Secretary of State, there is a remarkable explanation.

In this note it is apparent that Mr. Jackson alleges that the American Government was offended, and refused to receive any further communications from him, because he stated and adhered thereto, "that the three conditions, forming the substance of Mr. Erskine's original instructions, were submitted to the Secretary of State by Mr. Erskine; and, secondly, because he stated and adhered thereto, that that instruction is the only one in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, is known to him (Mr. Jackson) by the instruction which he has himself received." This is a strange explanation, indeed, and such a one as even Mr. Jackson himself would not have been presumed to have been capable to have made, if he had not made it. That the American Government was not offended, and did not refuse to receive further communications from him because he stated and adhered to the said two facts, is evident, not only by the correspondence between him and the Secretary of State, but also by the nature of the thing itself. The Secretary of State, however, in his despatch of the 23d of November, 1809, to Mr. Pinkney, Minister Plenipotentiary of the United States at Great Britain, has put this out of all dispute. In that letter the Secretary of State observes:

"It was never objected to him (that is, Mr. Jackson) that he had stated it as a fact, that the three propositions in question had been submitted to me by Mr. Erskine; nor that he stated it as made known to him, by the instructions of Mr. Canning, that the instruction to Mr. Erskine, containing those three conditions, was the only one from which his authority was derived to conclude an arrangement on the matter to which it related. The objection was, that a knowledge of this restriction of the authority of Mr. Erskine was imputed

H. OF R.

Conduct of the British Minister.

DECEMBER, 1809.

to this Government, and the repetition of the imputation, even after it had been peremptorily disclaimed. This was so gross an attack on the honor and veracity of this Government, as to forbid all further communications from him."

It is clear and indisputable that Mr. Jackson, in his note by Mr. Oakley, keeps concealed and out of view the real and true cause of his dismissal, and does assert two facts to be the cause of his dismissal, which were not the causes of his dismissal. It is observable that, in the letter signed F. J. Jackson, headed "Circular," dated 13th November, 1809, the same words, relative to the same two facts, are used, which, respecting them, are used in the note by Mr. Oakley; but, in the letter headed "Circular," the words "in order to repel the frequent charges of ill-faith which had been made against His Majesty's Government" are inserted so as to make the paragraph in the circular read:

"In stating these facts, and in adhering to them, as my duty imperiously enjoined me to do, in order to repel the frequent charges of ill-faith which have been made against His Majesty's Government, I could not imagine that offence would be taken at it by the American Government, as most certainly none could be intended on my part; and this view of the subject has been made known to Mr. Smith."

In the circular, then, there appears another statement not reconcilable to fact. In the note by Mr. Oakley, Mr. Jackson does not intimate that he stated the two facts, and adhered to them, in order to repel the frequent charges of ill-faith which have been made against His Majesty's Government, and therefore the same view of the subject was not made known to Mr. Smith, which, by the letter signed F. J. Jackson, headed "Circular," is intended, by way of appeal, to be made known to the citizens of the United States. From these premises, it may, without the help of insinuations, be fairly concluded that the words "false or fallacious disguises" are not improperly made use of in the joint resolution under consideration. It may here be further observed that, on this point, Mr. Jackson, if he wrote the letter signed F. J. Jackson, headed "Circular," dated 13th November, 1809, and it has not been denied that he did, is at issue with himself, and any gentleman who may attempt to justify or palliate his conduct towards the Executive Government of the United States may, without the aid of any writer on public law, be able to render a judgment.

I will now, said Mr. R., proceed to make some observations relative to the arrangement of April, made by Mr. Erskine, on behalf of His Britannic Majesty with the Government of the United States. Let it be observed, that I have no intention to become politician for Great Britain, or, on behalf of that Power, to intimate what course of policy would have been, or may be left, for him to pursue. The object of the arrangement of April, was to restore free commercial intercourse between the United States and Great Britain, by repealing the non-intercourse law, as it respected Great Britain, and rescinding the Orders in Coun-

cil, as they respected the United States; the conditions which, by the arrangement, the United States undertook to perform, were performed in good faith and in full reliance that Great Britain would also with good faith perform; but, instead of performing, Great Britain disavowed the arrangement. The consequences of the disavowal, so far as that disavowal respects commercial affairs, is generally known. If Great Britain had, with good faith, performed, on her part, the conditions of the arrangement, what would the consequences have been? Commerce would have been restored between the two nations. Great Britain, with her merchandise and money, has obtained, in as great extent as she desired, the immense produce, consisting of raw materials and provisions, and other articles of the United States. There was every reason to believe that France, in consequence of the Orders in Council being revoked as they respected the United States, would have rescinded her decrees, so far as they respected the United States, which event, in a commercial point of view, would have been advantageous to Great Britain. Under these circumstances, the United States and Great Britain might have progressed to a complete and satisfactory adjustment of all points of difference that had arisen between the two Governments, and the United States would then have remained a neutral nation. The Orders in Council having been revoked, if France had refused to rescind her decrees, the non-intercourse law would have continued in full force against her and her dependencies. It is not necessary, said Mr. R., for me to proceed further in noticing what might have been the consequences if Great Britain had, in good faith, performed, on her part, the conditions of that arrangement; but His Britannic Majesty disavowed that arrangement; and Mr. Jackson, in his correspondence with the Secretary of State, declares that His Britannic Majesty disavowed that arrangement, because Mr. Erskine violated his instructions.

On this statement of Mr. Jackson, an important question presents itself, viz: Did Mr. Erskine violate his instructions? Although, in discussing the resolution, an examination of this question may not be very necessary, it may, nevertheless, under existing circumstances, not be unimportant. Mr. Erskine, at the time of making the arrangement, was Minister Plenipotentiary of His Britannic Majesty, with full powers, in that capacity, near the United States. His allegiance and the duty he, in that high character, owed to his Sovereign, his own good name, his integrity, his honor, and his moral obligations, without taking into view the great respectability and high and honorable standing of his family, are strong presumptions that he did not violate his instructions, and it is generally believed that he did not violate them. Mr. Jackson, in his note by Mr. Oakley, to the Secretary of State, in observing "that the three conditions, forming the substance of Mr. Erskine's original instructions, were submitted to him by that gentleman," has used the word "original" antecedent to the word "instruction,"

DECEMBER, 1809.

Conduct of the British Minister.

H. OF R.

(by the word "instruction," it is presumed, he intends the despatch of the 23d of January, 1809,) intimating and thereby implying that Mr. Erskine had other instructions besides that original instruction. Mr. Erskine, in his letter of the 14th of August, 1809, expressly states, Mr. Canning's despatch of the 23d of January, formed but one part of his; that is, Mr. Canning's instructions to him. If, then, Mr. Erskine's assertion, in this case, wanted any corroborating proof, Mr. Jackson, by using the word "original" before the word "instruction," in his note by Mr. Oakley, has given that proof. Mr. Jackson, in his letter of the 11th October, to Mr. Smith, states, that the despatch from Mr. Canning to Mr. Erskine, (that is, the despatch of the 23d of January,) is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement. That may be true, but it will not prove that Mr. Erskine had not any other instructions besides that despatch, which Mr. Jackson, in his note to Mr. Oakley, denominates Mr. Erskine's "original instruction." This word "original" is, as it were, a key to unfold not only Mr. Jackson's obscure and guarded correspondence, in respect of Mr. Erskine's instructions, but also to show what the nature and extent of all his instructions were. So far, then, in this obscure question, there is evidence to believe that Mr. Erskine had other instructions than the despatch of the 23d of January. It may be further observed that Mr. Erskine, at the time he wrote his letter of the 14th of August to Mr. Smith, in which he stated that the despatch of the 23d of January formed only one part of his instructions, did not write it with a design that it was to be kept concealed, but must have anticipated that it would be made public; and that, of course, it would be known to his Government; therefore, he would not attempt to write to Mr. Smith that which he knew was not true. From all these considerations, therefore, it is reasonable to believe—nay, they amount to sufficient proof, so far as, in this case, at present, can be expected, that Mr. Erskine had other instructions besides that original instruction or despatch of the 23d of January; and that those instructions were such as authorized him, if he could not obtain a recognition of all three conditions, specified in the original despatch or instruction of the 23d of January, to obtain a recognition of as many or so much of them, in substance, as he could. That this was the true nature of his instructions, is not contradicted by Mr. Jackson's statement, that the despatch of the 23d of January was the only despatch in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement; because the arrangement of April, in its extent, although it does not recognise all the conditions contained in the original despatch, does not contain or embrace any that are contained in and intended by that despatch. And that that was the true nature of his instructions is further manifested by what Mr. Erskine himself writes to Mr. Smith on that subject, in his letter of the 31st of July, 1809.

And, in his letter of the 14th of August, 1809,

to Mr. Smith, Mr. Erskine, after noticing that Mr. Canning's despatch of the 23d of January formed but one part of his instructions, and that he considered that it would be in vain to lay before the Government of the United States the despatch in question, which he was at liberty to have done, *in extenso*, had he thought proper, observes:

"But, I had such strong grounds for believing that the object of His Majesty's Government could be attained, though in a different manner, and the spirit, at least, of my several letters of instructions be fully complied with, I felt a thorough conviction upon my mind that I should be acting in conformity with His Majesty's wishes, and accordingly concluded the late provisional agreement on His Majesty's behalf with the Government of the United States."

These declarations of Mr. Erskine are conclusive on the subject of the nature and extent of his instructions; and, indeed, great credit, deference, and respect, ought to be given to these declarations of Mr. Erskine, not by reason only of his own personal integrity and character, but also by reason of his high official character and his great responsibility. If any further evidence is necessary to prove that Mr. Erskine did not violate his instructions, that evidence comes even from Mr. Canning himself, not directly, it is admitted, but in such a manner as to leave no doubt of its applicability and conclusiveness. In the letter of Mr. Pinkney, of the 23d of June, 1809, to the Secretary of State, Mr. Pinkney, after observing that he "had an interview with Mr. Canning," and that "upon the second of the conditions mentioned in Mr. Erskine's instructions, he made several remarks," states that the second condition had no necessary connexion with the Orders in Council; and he intimated that they would have been content to leave the subject of it to future discussion and arrangement." Mr. Pinkney, after further observing in that letter that, "upon the third condition, he said 'a very few words; that he restated what he had thrown out upon the matter of it in an informal conversation in January, and expressed his regret that it should have been misapprehended,'" states that "Mr. Canning immediately said that he was himself of opinion that the idea upon which that condition turns could not well find its way into a stipulation; that he had, nevertheless, believed it proper to propose the condition to the United States; that he should have been satisfied with the rejection of it; and that the consequence would have been that they should have intercepted the commerce to which it referred, if any such commerce should be attempted. These express declarations of Mr. Canning respecting the second and third conditions specified in the original instructions of the 23d of January, indubitably go to corroborate what has been already observed respecting the nature and extent of Mr. Erskine's several instructions, and that he was vested with discretionary powers relative to the same second and third conditions.

Considering that Mr. Erskine, by his several

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

letters of instruction, had discretionary powers relative to the second and third conditions, specified in the despatch of the 23d of January; he, in consequence thereof, and to prevent difficulties which would thereon have arisen, did not lay before the Government of the United States *ex-tenso*, the original instruction, viz: the despatch of the 23d January; he had submitted the substance of the three conditions, probably as a matter of inquiry; but the result of that inquiry manifested to him that it would be in vain to lay that despatch of the 23d of January before the Government of the United States. There remained, then, for the basis of an arrangement to be made by Mr. Erskine on behalf of his Government and the United States, the first condition specified in the despatch of the 23d of January. This condition is expressed in the manner following:

"That the American Government is prepared, in the event of His Majesty's consenting to withdraw the Orders in Council of January and November, 1807, to withdraw, contemporaneously on its part, the interdiction of its harbors to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain, leaving them in force with respect to France and the Powers which adopt or act under her decrees."

The last sentence in this first condition is that alone upon which any difficulty could have arisen. On this sentence, it may be observed, that the effect of these words is, by force of the terms, limited in duration with the decrees of France; and this limitation was provided for by the embargo laws, and by the non-intercourse law. It would have been improper for the United States to have permitted a principle of limitation in this case to have become a matter of compact with Great Britain; and Great Britain, on principles of reciprocity, ought to have relied on the good faith of the United States that they would have continued the operation of the non-intercourse law against France during the existence of the French decrees, as they respected the United States, pursuant to the provisions of that effect in the non-intercourse law. And by what is stated in the letter of Mr. Pinkney, of the 23d of June, to the Secretary of State, respecting a conversation between him and Mr. Canning respecting the first condition, there is some reason to apprehend that Mr. Canning was rather inclined to that opinion. Be that as it may, Mr. Erskine, at the time of making the arrangement, knew that, in the non-intercourse laws, provision was made for the continuance of the non-intercourse with France during the existence of the French decrees, and that, having that knowledge and knowing that the United States were pledged by their own law to themselves for the continuance of non-intercourse with France, he did not deem it necessary to insist upon a principle which he had good reason to believe he could not obtain, in any other manner to be provided for, than it had been done by the non-intercourse law. This sentence, then, being out of the way, the residue of the first condition remained to be acted on as the basis of an

arrangement between the United States and Great Britain. It was acted on, and the arrangement of April was made between Mr. Erskine and Mr. Smith. That arrangement is well known; and it is not necessary to show how exactly and completely it corresponds with that basis. From what has been said, it may be concluded that there are strong and solid reasons to believe that Mr. Erskine did not violate his instructions; and it also evidently follows, as a conclusion, that Mr. Smith did not substitute conditions in lieu of those originally proposed, anything in the letters of Mr. Jackson to the contrary notwithstanding.

I will now, said Mr. R., dismiss the subject with observing, that I will vote against the motion to postpone, and, finally, I will vote for the resolution.

MONDAY, January 1, 1810.

The House assembled this day, but transacted no business of importance.

TUESDAY, January 2.

Another member, to wit: from Pennsylvania, ROBERT JENKINS, appeared, and took his seat in the House.

Mr. LOVE presented the petition of the President and Directors of the Bank of Alexandria, signed by William Herbert, their President, praying that an act may be passed extending the charter of the said bank for a period of twenty years beyond the fourth of March, one thousand eight hundred and eleven, at which time the present charter will have expired.—Referred to the Committee for the District of Columbia.

Mr. LOVE presented a petition of the President and Directors of the Bank of Potomac, praying that an act may be passed granting a charter to the said bank, to take effect as soon as the existing laws of the United States will permit. Mr. L. also presented a petition of the President and Directors of the Union Bank of Georgetown, to the same effect with the petition last stated.—Referred to the Committee for the District of Columbia.

Mr. LOVE, from the Committee for the District of Columbia, presented a bill for the improvement of the navigation of the river Potomac; which was read twice, and committed to a Committee of the Whole on Monday next.

CONDUCT OF THE BRITISH MINISTER.

The House again took up the resolution approving the conduct of the Executive in refusing to hold further communication with Francis J. Jackson.

Mr. UPHAM.—Mr. Speaker, as I am called upon to pass upon the resolution on your table, I cannot content myself with giving a silent vote. I feel it my duty at least to protest against it, and to state some of the reasons which influence my opposition.

It certainly is a very important resolution; indeed, it seems agreed by its friends as well as its

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

opposers, to be one of great magnitude, as great as ever came before this House.

It may, in my opinion, lead to the most serious and lamentable consequences. It is nothing less than a conditional, a provisional declaration of war against Great Britain. It has excited the sensibility not only of this House, but of this nation?

Gentlemen, in the discussion, sir, have taken a wide and extensive range; they have given their opinions and stated their creeds upon very many topics respecting our concerns with Great Britain. Indeed they have, in the course of the debate, discussed all our relations with that nation. These subjects, in my opinion, have no immediate bearing upon the question before the House.

The real question before the House is, did Mr. Jackson charge our Administration with a knowledge at the time of the arrangement of the 19th of April last, that Mr. Erskine was acting contrary to and in violation of his instructions, in making that arrangement, and repeat the charge after it had been peremptorily disclaimed.

The position that Mr. Jackson did make and repeat such charge after it was disclaimed, was the cause of breaking off the correspondence and dismissing the Minister. See the printed documents, page 87, in Mr. Smith's letter to Mr. Pinkney, of November 23d, 1809. Mr Smith says, "It was never objected to him, Mr. Jackson, that he had stated it as a fact, that the three propositions in question had been submitted to me by Mr. Erskine, nor that he stated it, as made known to him by the instructions of Mr. Canning, that the instruction to Mr. Erskine, containing those three conditions, was the only one from which his authority was derived to conclude an arrangement on the matter to which it related. The objection was, that a knowledge of this restriction of the authority of Mr. Erskine, was imputed to this Government, and the repetition of the imputation, even after it had been peremptorily disclaimed." In Mr. Smith's letter to Mr. Jackson of November the 1st, 1809, see printed documents, page 65, it appears that the aforesaid position is the groundwork of all the difficulty. The whole question then in fact before the House is, whether it be true that Mr. Jackson did make such charge and repeat it after it was denied by our Administration.

On the decision of this question depends the decision of the resolution. This charge forms the loop-hole on which are suspended all the anathemas against Mr. Jackson and his Government. This is the string on which seem to hang all the sorrows of the country; on this pivot is to turn the fate of the nation. On this charge is rested war or peace.

As to the circular of the 13th of November, which is called in the resolution the appeal to the people, and made so much of in that resolution, this circular surely was not the cause of the rupture, for it was subsequent; nor was it the cause of the resolution.

It does not appear that it was published by Mr. Jackson, nor by his order or consent or knowledge.

It might have found its way into the newspapers in very many ways, consistent with his innocence, as to its publication. It might have been printed by one of the Consuls, without Mr. Jackson's knowledge. If it were published by him the fact might easily be proved; but it cannot be shown that he did not know of the publication. This would be proving a negative.

But what is this circular? Compare it with the description of it in the resolution. See the circular in the President's Message of the 12th of December, page 4th. In the first place, it states that the correspondence is broken off. In the second place, it states the cause. In the third place, it proceeds to say, "In stating these facts," alluding to the cause of the rupture, "and in adhering to them as my duty imperiously enjoined me to do, in order to repel the frequent charges of ill faith which have been made against His Majesty's Government, I could not imagine that offence would be taken at it by the American Government, as most certainly none could be intended on my part." Mr. Jackson concludes this circular by giving information to the Consuls that it had become necessary to withdraw altogether from the City of Washington, and that he should make the city of New York the place of his residence till he should receive the commands of His Majesty, where their communications to him would be directed. The resolution on your table, sir, makes this circular a very different thing. It makes it the very top of the climax of all the insults towards our Administration. See the resolution. I will read that part of it which describes this letter "That the letter signed Francis J. Jackson, headed Circular, dated 13th of November, 1809, and published and circulated through the country, is a still more direct and aggravated insult and affront to the American people and their Government, and it is evidently an insidious attempt to excite their resentments and distrusts against their own Government, by appealing to them through false or fallacious disguises against some of its acts; and to excite resentments and divisions amongst the people themselves, which can only be dishonorable to their own characters and ruinous to their own interests."

The letter appears to me to be proper for its ostensible avowed purpose. If it be such a one as is fit for the occasion, such a one as the Minister would officially write to the Consuls, provided he had nothing in view but to give them the necessary information—and very different from what it ought to have been to have attained its object if it had been intended as an address, or appeal to the people—surely, by every rule of reason and construction, it should be taken and received to be what it purports to be.

All parties allow Mr. Jackson to be a man of talents and information. If he had intended to excite the feelings and the passions of the people, would you have seen such a letter as this? Would he have contented himself with saying so little and in such a tone? This is conclusive to my mind that he had no idea of appealing to the

people. Genet did not appeal to the people in an address like this. Let gentlemen compare the letter of the English with that of the French Minister. If this was really considered so offensive a letter as to be entitled to all the hard epithets bestowed upon it in the resolution, how does it happen that the President of the United States never discovered it? This letter was dated the 13th of November—sixteen days after, the 29th, we had the Message from the President. In this Message the President, who never suffers anything to pass unnoticed, who is always instant in season and not out of season, did not notice this famous letter at all. In this Message, in which the breaking off of the correspondence with the British Minister, and his dismissal, &c., form a principal topic, not a single word is said about this circular. This shows that the President did not consider it as objectionable. He did not view it as an appeal to the people. This idea of its being an appeal to the people was the result of an after and superficial consideration.

I find too, Mr. Speaker, that this letter was not considered by Mr. Smith, the Secretary of State, as so monstrous a thing as it seems to have been by the mover of the resolution. It seems that the Secretary was in doubt whether Mr. Jackson intended the second note delivered to him through Mr. Oakley, the British Secretary of Legation, "the contents of which entirely correspond" with this circular, "as essentially intended as a justification of the correspondence, which had given umbrage, or as a conciliatory advance;" see page 87 of the printed documents. In the Secretary's letter to Mr. Pinkney, he says, "the second note seems to be essentially intended as a justification of the conduct of Mr. Jackson in that part of the correspondence, which had given umbrage. If he intended it as a conciliatory advance, &c; but whether he had one or other or both those objects in view, it was necessary for him to have done more than is attempted in this paper." Now it seems that Mr. Smith was really at a loss, whether this note, which is essentially the same with the circular, was intended as a justification of his conduct or a conciliatory advance. At any rate, it evidently appears that he did not consider it as a very deleterious thing.

I think, sir, I have shown that this circular, which seems to make so distinguished a figure in the resolution, was in reality no cause of the resolution; that it was an inoffensive thing. I, therefore, consider it out of the case, and that the real question before the House is that which I have stated: Did Mr. Jackson make the charge and repeat it, after it had been peremptorily denied?

I lay stress on that part of the position which says, that after denial the charge was repeated. It seems agreed by the opposers of this resolution, as well as its supporters, that it is inadmissible for a public Minister to charge the Administration at whose Court he is accredited, of a falsehood, even if he be correct in the charge. To this I agree. But if, while Mr. Erskine thought or at least said, he was acting according to the

spirit, if not the letter, and agreeably to the wishes of His Majesty, the King of Great Britain, our Administration thought otherwise, or if from all the circumstances they doubted it, in the then peculiar, hard, and oppressed state of this country, I am not sure it was an unpardonable offence for them to proceed in the arrangement. Our citizens were experiencing very great evils and enduring every privation from the system of restriction upon commerce. We had the non-importation act, the proclamation of the 2d of July, 1807, the embargo, and the non-intercourse, upon our shoulders. Now, if by the arrangement all these grievances could be got rid of; if the people could be relieved from this weight under which they were so deeply groaning; indeed, if it could be taken off only for a time, so as to give them a respite, the inducement to do it was great and imperious. Such was the state of our affairs, that there was no great hazard of making bad worse. And if there would have been nothing unpardonable in our Administration in doing this, surely it would not have been so very offensive if Mr. Jackson had made the insinuation: However, I will not enlarge upon this, for if Mr. Jackson made the charge, he unquestionably repeated it after it was disclaimed.

Mr. Speaker, I observed, when I first rose, that gentlemen had taken a wide range in this debate, and discussed all our foreign relations, especially those with Great Britain; and that these topics had no immediate bearing upon the question before the House, and strictly ought not to have been introduced into the debate.

On those collateral points, which have been drawn into examination in the progress of the discussion in general, the advocates and the opposers of the resolution have agreed either absolutely or *sub modo*.

It has been agreed that Great Britain has encroached more or less upon our neutral rights. It has been agreed too by some, on both sides, that Great Britain has given us cause for war.

Now, sir, although I am no apologist for that nation—I profess to be exclusively an American—yet I am not prepared to say that Great Britain, as a Government, has given us cause of war. I consider the murder of Pierce and the affair of the attack of the Chesapeake, about which we have heard so much in the course of this debate, as well as all others,—I consider these and all other acts which have been disavowed by the Government, as wholly out of the case. Taking into consideration the peculiar and awful state of the world at present, and for a number of years past, and considering that England has been contending for peace, order, religion, and everything sacred, while her grand enemy, Napoleon, has been destroying and trampling all peace and order, and religion, and everything sacred, under foot; that Great Britain has been fighting for the island which she inhabits and for her existence, while the conqueror of continental Europe, instigated by an inextinguishable lust for power, has been fighting for universal domination; taking these things into view, together with the

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

course our Government has pursued towards her, I am not prepared to agree that Great Britain has given us cause of war. I am not prepared to say that she has, as a Government, been more incorrect towards this country than the extremity to which she is and has been reduced would excuse. She has been, as is often said, virtually fighting the battles of the civilized world, not indeed for the sake of the world, but to preserve her own existence. However, it is unnecessary for me to dwell upon or to give an opinion upon this point, for it has no bearing on the question before the House.

It has been agreed by gentlemen, for and against the resolution, that a nation, in order to blockade the ports of its enemy, must so invest with a naval force that port as to render it in some measure dangerous to attempt to enter it. However, this has no relation to the question before us.

It has been unanimously agreed by those who have taken a part in the debate, that the pretensions of the British Government are inadmissible as to the three conditions mentioned in the letter of January 23d, 1809, from Mr. Canning to Mr. Erskine, and proposed as the basis of the arrangement of the 19th of April last. As to the first, the President could not pledge himself that the restrictions should be continued against France, because this must depend upon a legislative act. As to the second, respecting the colonial trade, in the latitude contemplated by Mr. Canning, more especially, no one hesitates to reject it. The third condition, which goes to authorize the English Government to enforce our laws, and thereby encroach upon the sovereignty of our country—this surely cannot, for a moment, even admit consideration. No member indeed on this floor has given it so much countenance as the Secretary of State—no one has allowed that our citizens would come to our Government with an ill grace to complain of an injury which they received from the English Government, in consequence of having vindicated the laws of their own country.

But we have no reason to complain of the English Government for proposing those conditions. In the first place, it is competent as a general rule and upon general principles to one nation, while treating with another, to make any propositions, provided they are not insulting in themselves, and provided they are proposed in a manner comporting with diplomatic etiquette. In the second place, under the peculiar circumstances of this case, surely we have no cause of complaint against Great Britain for proposing those conditions. Two of them, the first and second, originated with the members of our Cabinet, and the third was consented to by our Minister at the Court of St. James; and to say the least, not very severely frowned upon by our Secretary. In the 16th and 17th pages of the printed documents, we see what Mr. Madison and Mr. Smith said to Mr. Erskine as to the first condition. I will read a paragraph or two from Mr. Erskine's letter to Mr. Smith, dated the 14th of

last August. "After some other observations, 'Mr. Madison is stated by me at that time to have added, that as the world must be convinced that America had in vain taken all the means in her power to obtain from Great Britain and France a just attention to her rights as a neutral Power, by representations and remonstrances, that she would be fully justified in having recourse to hostilities with either belligerent, and that she only hesitated to do so from the difficulty of contending with both; but that she must be driven even to endeavor to maintain her rights against the two greatest Powers of the world, unless either of them should relax their restrictions upon neutral commerce, in which case the United States would at once side with that Power against the other which might continue its restrictions,' &c. In the 17th page Mr. Erskine adds: "I understood very distinctly that the observations of the Secretary of State, Mr. Madison, were intended to convey an opinion, as to what ought and would be the course pursued by the United States, in the event of his Majesty's Orders in Council being withdrawn." Mr. Erskine proceeds: "In these sentiments and opinions you concurred, as I collected from the tenor of several conversations which I held with you at that period." In the same letter from Mr. Jackson to Mr. Smith, we perceive what Mr. Gallatin said to the former as to the second condition, page 18, of the printed documents. "He, Mr. Gallatin, adverted also to the prohibiting of an adjustment of another important point in dispute between the two countries, as he said he knew it was intended by the United States to abandon the attempt to carry on a trade with the colonies of belligerents, in time of war, which was not allowed in time of peace, and to trust to the being permitted by the French, in peace, to carry on such trade, so as to entitle them to the continuance of it in time of war."

In page 19, of the documents, and in the same letter, Mr. Erskine speaks as follows of the third condition: "As to the third condition referred to by you, specified in Mr. Canning's instructions, I have only to remark that I never held any conversation with the members of the Government of the United States relative to it, until my late negotiation, or had ever mentioned the subject to His Majesty's Government; it having for the first time been presented to my consideration in Mr. Canning's despatch to me of the 23d of January, in which that idea is suggested, and stated to have been assented to by Mr. Pinkney." In page 20th, of the documents, and in the same letter, Mr. Erskine goes on to state what Mr. Smith, the Secretary of State, said as to this third condition: "The third condition you certainly very distinctly informed me could not be recognised by the President, but you added, what had great weight in my mind, that you did not see why any great importance should be attached to such a recognition; because it would be impossible that a citizen of the United States could prefer a complaint to his Government on ac-

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

'count of the capture of his vessel while engaged in a trade absolutely interdicted by the laws of his country.' This is the account given of the origin of the three conditions by Mr. Erskine. We will now see what Mr. Canning says as to his inducement to propose them.

In the Message of the President of December 12th, page 7, we find that Mr. Canning, in his despatch to Mr. Erskine of January 23d, 1809, says: "As the first and second of those conditions are the suggestions of the persons in authority in America to you, and as Mr. Pinkney has recently (but for the first time) expressed to me his opinion that there will be no indisposition on the part of his Government, to the enforcement by the naval power of Great Britain of the regulations of America with respect to France and the countries to which these regulations continue to apply, but that his Government was itself aware that without such enforcement those regulations must be altogether nugatory; I flatter myself that there will be no difficulty in obtaining a distinct and official recognition of those conditions of the American Government."

Now, Mr. Speaker, exceptionable and inadmissible as these conditions are, yet such were the circumstances under which they were proposed, as to take away all complaint on account of the proposition.

But whether or not Great Britain is justified in offering these conditions to our Administration as the basis of an arrangement, has no immediate bearing on the question really under discussion.

It has been said by gentlemen adverse to the resolution, as well as by those friendly to it, that Mr. Jackson was not over courtly in his correspondence with our Secretary—possibly he was so much on his guard lest he should as far overact in pliability as his predecessor did, that he was carried a little into the other extreme. He might brace so strong against being too accommodating, as to lean too far the other way. I think myself, sir, he took rather too high a tone as to the proposition of Mr. Smith to pass from oral to written correspondence—of this, in my opinion, he made too much.

And, sir, for one, I am ready to allow that in offering satisfaction to this country for the attack on the Chesapeake, in what he calls "a paper of memoranda," which is to be found in the 63d page of the printed documents, Mr. Jackson might as well have been silent as to the proclamation of July the 2d, 1807, since this proclamation, in fact, did not exist at that time. It would have been more conciliatory in his Government to have given up the etiquette of having recorded in the official document offering satisfaction for the attack upon the Chesapeake, the abrogation of this proclamation. I think, sir, also, that the two reserves founded on the doctrine of allegiance in England, in this "paper of memoranda," might as well have been omitted.

I will read, sir, this paper; it was enclosed in Mr. Jackson's letter of the 27th of October last,

to Mr. Smith. "The President's proclamation of July, 1807, prohibiting to British ships of war the entrance into the harbors of the United States, having been annulled, His Majesty is willing to restore the seamen taken out of the Chesapeake, on reserving to himself a right to claim in a regular way, by application to the American Government, the discharge of such of them (if any) as shall be proved to be either natural born subjects of His Majesty or deserters from His Majesty's service." "His Majesty is willing to make a provision for the families of such men as were slain on board the Chesapeake in consequence of the unauthorized attack upon that frigate, provided that such bounty shall not be extended to the family of any man who shall have been either a natural born subject of His Majesty or a deserter from His Majesty's service."

On the point of these two reserves, as they have been called, there is unquestionably very great difficulty—there are clashing principles and a conflicting practice. The doctrine in Great Britain is, that a person there born owes an allegiance to the King, of which he cannot divest himself, that he cannot throw off. It is there held that he cannot expatriate himself. And at the same time by act of Parliament a foreigner may be naturalized, and thereby all the privileges and immunities of a subject born in England be extended to him. And by our laws a foreigner may be naturalized and partake of every advantage of our own countrymen, and our Government is as much bound to protect him, on the ocean as well as on land, as it is a native citizen. To reconcile these principles and laws has perplexed the greatest statesmen and civilians. It is not to be disguised that there is here and always has been a difficulty not easily to be adjusted. Now, Mr. Speaker, other things being equal, had the British Government had nothing to induce, or justify, or apologize for, the introduction of these things into this "paper of memoranda," they had better been omitted.

But for the insertion of these points of controversy into his proposals of reparation for the attack on the Chesapeake, perhaps Mr. Jackson and his Majesty, the King of England, supposed they found their apology in the manner that our Administration managed the arrangement of the 19th of April last with Mr. Erskine. Why, sir, was it necessary for the President to direct Mr. Smith to inform Mr. Erskine, that the non-intercourse law was not passed for the sake of placing his Government, in its relations with ours, on an equal footing with the other belligerent Powers; or to tell His Majesty, the King of England, through his Minister, that it would have better comported with his honor to have punished the offending officer, Admiral Berkeley, more severely? This was on the same subject-matter. These exceptionable points were in the one case and in the other introduced while attempting to settle the affair of the Chesapeake. Whether the conduct of our Administration in this business forms a justification for that of Mr.

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

Jackson and his Government, I do not pretend to determine. But I confess I do not understand why our Administration should be unwilling to have it understood by the English Government that Congress by their proceedings had evinced an intention to place the relations of Great Britain with the United States upon an equal footing with the other belligerent Powers, or why it was necessary to inform His Britannic Majesty what would best comport with what was due to his own honor. However, I presume there were reasons with which I am not acquainted for all this. I will, sir, read the paragraphs to which I have alluded, from the documents accompanying the President's Message of 23d of May last. In page second of those documents, in Mr. Erskine's letter to Mr. Smith, under date of April 17th, 1809, Mr. Erskine says: "It having been represented to His Majesty's Government, that the Congress of the United States in their proceedings at the opening of the last session had evinced an intention of passing certain laws, which would place the relations of Great Britain with the United States upon an equal footing in all respects with the other belligerent Powers; I have accordingly received His Majesty's commands, in the event of such laws taking place, to offer, on the part of His Majesty, an honorable reparation for an aggression committed by a British naval officer in the attack on the United States' frigate Chesapeake."

In the 4th page of said documents, in Mr. Smith's letter to Mr. Erskine, dated April the 17th, 1809, Mr. Smith having expressed the pleasure with which the President receives the assurances that His Britannic Majesty is animated with the same disposition with himself, for an adjustment of the differences between the two nations, and that His Majesty is ready to make atonement for the aggression on the Chesapeake—proceeds as follows: "As it appears at the same time that in making this offer His Britannic Majesty derives a motive from the equality now existing in the relations of the United States with the two belligerent Powers, the President owes it to the occasion and to himself to let it be understood that this equality is a result incident to a state of things growing out of distinct considerations. With this explanation, as requisite as it is frank, I am authorized to inform you, that the President accepts the note delivered by you in the name and by the order of His Britannic Majesty, and will consider the same with the engagement contained therein when fulfilled as a satisfaction for the insult and injury of which he has complained. But I have it in express charge from the President to state that while he forbears to insist on a further punishment of the offending officer, he is not the less sensible of the justice and utility of such an example, nor is he less persuaded that it would best comport with what is due from His Britannic Majesty to his own honor."

Now, Mr. Speaker, since the President had made up his mind to accept of the offered reparation, it really appears to me that it would have

been more conciliatory at least to have suppressed these irritating suggestions.

It seems that the last of itself, had there been no other objection, would have been sufficient to have prevented the King of England from avowing and ratifying the arrangement.

I will read, sir, what is said by Mr. Jackson on this point in his letter to Mr. Smith, under date of October the 11th, in page 36th of the printed documents. Speaking of the terms of the satisfaction for the attack on the Chesapeake, tendered and accepted in the arrangement of the 19th of April last, and not carried into effect, Mr. Jackson proceeds as follows: "I believed that I had observed to you in the words of my instructions that if His Majesty were capable of being actuated by any desire to retract an offer of reparation which he had once made, His Majesty might be well warranted in doing so, both by the form in which his accredited Minister had tendered that reparation and by the manner in which the tender had been received. I believe that I elucidated this observation by a reference to the particular expressions, which made the terms of satisfaction appear to be unacceptable even to the American Government at the very moment when they were accepted, and which, at all events, put it totally out of His Majesty's power to ratify and confirm any act in which such expressions were contained."

I agree likewise that from the correspondence so far as it proceeded, there was not very strong evidence to my mind exhibited of concluding a treaty, or a very strong disposition discovered on the part of either agent to do it.

It has furthermore been agreed by those who are against as well as those in favor of the resolution, that a foreign Minister ought not to appeal from the Administration to the people. In the case now under consideration I have not been able to discover that such appeal had been made. In the course of this debate, sir, the subject of diplomatic authority has been fully and ably investigated.

Two points have been illustrated, and to my mind perfectly established on this head. First, that our Administration ought to have known and been furnished with the competent evidence that Mr. Erskine had authority to form the arrangement of the 19th of April, or forborne to complete that arrangement. This has been shown beyond all refutation by the honorable gentleman from Connecticut, who introduced this debate on the part of the opposition. He has adduced public law, and the practice of this nation from the time it established its independence, to this point, and has settled it conclusively to my mind.

In the second place, it has been illustrated that Mr. Jackson, to justify his Government and repel the charge of bad faith, had only to show that the arrangement was contrary to and in violation of his instructions. This point may have a bearing upon the real question before the House, as it shows that it was not at all incumbent upon Mr. Jackson to make it appear that our Administration knew that Mr. Erskine was acting

against his instructions. If he attempted to do this it was a work of supererogation.

I have, Mr. Speaker, followed the example of other gentlemen, and remarked on topics not intimately connected with the direct point before the House as the basis of the resolution.

The question, sir, after all, is what I have stated: Did Mr. Jackson, directly or indirectly, charge our Administration with making the arrangement of the 19th of April, with a knowledge at the time that he was acting contrary to and in violation of his instructions, and repeat the charge after it had been peremptorily disclaimed?

Has it been shown that such charge was made? Mr. Jackson pleads not guilty—he virtually denies that he intended to make such charge, and explains the facts, &c., as appears by his second note to Mr. Smith, delivered by Mr. Oakley. To this note I have already called the attention of the House. Mr. Jackson “could not imagine that offence would be taken at what he said, as most certainly none was intended on his part.”

It certainly is incumbent upon those who support the resolution to make out their case—the burden of proof is upon them; they will not condemn till they have proved an offence—they will not pass the resolution till they establish its truth.

The very terms in which the charge is couched, as well in the letter of Mr. Smith as in the resolution, create an idea in my mind of something like a doubt in the minds of those who have used those terms, whether in fact any such charge was made—“the repetition of a language implying a knowledge”—“expressions conveying the idea that the Executive Government,” &c.—“The repetition of the same intimation.” There is really something strange and odd to me in the manner of making this charge against Mr. Jackson. It is surely out of the common course of expression. It is like the shade of the shadow of a resemblance.

In the next place, I perceive that some of the supporters of the resolution have found the offence—the exceptionable insinuation—in one page of the correspondence, and some in another—some in one paragraph, and some in another—some in one sentence, and some in another. Indeed, the mover of the resolution has not ventured to point out the particular language containing the offensive insinuation. He says—“the expression contained in the official letter,” &c.—“dated the 23d of October, 1809,” &c.—“Conveying the idea,” &c.—“That the repetition of the same intimation in this official letter, dated the 4th of November, 1809,” &c.

Sir, there is but one way to account for such a diversity of opinion, even among the friends of the resolution, as to the place where we are to look for this offence. If it be so doubtful whence it is to be found, may it not be doubtful where it is to be found at all? There really seems to be great perplexity among the advocates on this subject. If expressions had been used by Mr. Jackson towards our Administration of a nature to authorize the putting an end to the correspondence, and dismissing him as a public Minister,

and to justify the resolution on your table, one would imagine there would be no difficulty in designating and agreeing upon the very expressions.

Again, the gentlemen who have spoken in favor of the resolution, have wholly failed to establish to my comprehension the truth of the charge against Mr. Jackson. On the other hand, the gentlemen in opposition to it have, as a work to be sure of supererogation, shown clearly that the insinuation, that our Government knew, at the time, that Mr. Erskine was acting contrary to his instructions, is not contained in any sentence or paragraph of Mr. Jackson in the whole correspondence, that bears on or alludes to the subject. They have, contrary to the general rule indeed, proved a negative. They have satisfied every expression, and at the same time excluded the insinuation.

If we take into consideration and carry in our minds, while investigating this correspondence, what it was necessary for Mr. Jackson to do, in order to justify his Government and repel the charge of bad faith, it will aid us the better to understand him. He surely knew his duty—among all the severe things that have been said of him in the course of this debate, no one has alleged that he was deficient in talents or information. It has been said that he has long been a distinguished member of the English diplomatic corps. He certainly must have known his duty. He could not suppose that it was incumbent on him to do more than to show that Mr. Erskine, in making the arrangement, wholly departed from and acted against his instructions, in order to fully authorize his Government to disavow it. He, therefore, had no inducement to charge our Administration with the knowledge that Mr. Erskine was violating his instructions.

We perceive the object of Mr. Jackson to be as I have stated in the first paragraph in the correspondence, which some gentlemen have pointed out as containing the offensive insinuation. This is to be found in page 31 of the printed documents. Speaking of the disavowal of the arrangement, Mr. Jackson remarks: “I observe, that in the records of this mission, there is no trace of a complaint on the part of the United States of His Majesty having disavowed the act of his Minister. You have not, in the conferences we have hitherto held, distinctly announced any such complaint, and I have seen with pleasure in this forbearance, on your part, an instance of that candor, which I doubt not will prevail in all our communications, inasmuch as you could not but have thought it unreasonable to complain of the disavowal of an act, done under such circumstances, as could only lead to the consequences that have actually followed.”

Now, sir, it is utterly impossible, that Mr. Jackson could have any allusion, in this paragraph, to the time of making the arrangement. He was speaking of the complaint on account of the disavowal of that arrangement. At the time of making the arrangement, surely there was no disavowal to complain of. Mr. Smith says Mr.

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

Jackson must have thought it unreasonable to complain of the disavowal of an act, &c.—when? Why at the time of the conferences—at a time when he knew that the arrangement was disavowed. Until that time, there was nothing for the pretence of complaint, and at a time when he knew it was made contrary to the instructions of Mr. Erskine.

But, in one of the next sentences of Mr. Jackson, he excludes the idea of all charge of a knowledge in our Administration that Mr. Erskine was acting in violation of his instructions. He proceeds to remark that Mr. Erskine did not show the whole of his instructions, that he did not communicate his original instructions *in extenso*. If so, it was impossible for Mr. Smith to know, whether or not Mr. Erskine was making the arrangement in conformity to his instructions. "It was not known, when I left England, whether Mr. Erskine had, according to the liberty allowed him, communicated to you, *in extenso*, his original instructions. It now appears he did not," &c.

Again, in page 32d of the documents, Mr. Jackson observes to Mr. Smith, that the latter had informed him, that he, Mr. Smith, understood that Mr. Erskine had two sets of instructions. How, sir, could Mr. Jackson, with any consistency, make this observation to Mr. Smith, while at the same time he was charging him with knowing that Mr. Erskine was acting contrary to his instructions. "You have informed me that you understood that Mr. Erskine had two sets of instructions by which to regulate his conduct; and that upon one of them, which had not been communicated either to you or to the public, was to be rested the justification of terms finally agreed upon between you and him." Mr. Jackson then proceeds solemnly to declare to Mr. Smith that the despatch from Mr. Erskine of January the 23d is the only one by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates.

Is it possible, Mr. Speaker, to suppose that Mr. Jackson would formally and gravely and solemnly declare to Mr. Smith the very fact, that he was insinuating that he knew long before, that is to say, at the time of the arrangement? The supposition is inadmissible: "It is my duty, sir, solemnly to declare to you and through you to the President, that the despatch from Mr. Canning to Mr. Erskine, which you have made the basis of an official correspondence with the latter Minister, and which was read by the former to the American Minister in London, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with this country on the matter to which it relates."

But, sir, I will not take up further time in reading documents on this point. It will be seen that in the paragraphs in the 57th and 58th and 70th and 71st pages (which, with those upon which I have remarked, I believe are all in the whole correspondence that have the least bearing

upon the real question before the House) that the sole object of Mr. Jackson was to justify his Government and repel the charge of bad faith, by establishing the fact that Mr. Erskine had made the arrangement contrary to and in violation of his instructions.

However, after so many able illustrations of the subject as have been presented to the House, after so many eloquent and powerful gentlemen have sought in vain for the offensive implication, it surely would be idle and vain for me to attempt to search it out. I would no more after all this detain the House for me to try to hunt up the language implying an insinuation and the language conveying an idea, &c., in which the "insult" is to be found, than I would search for the Philosopher's Stone, attempt to ascertain Perpetual Motion, or find the Longitude.

But, Mr. Speaker, supposing, though not allowing, that Mr. Jackson did insinuate or suggest, as stated in the resolution, that our Executive Government had a knowledge, at the time, that the arrangement was entered into without competent powers on the part of Mr. Erskine—waiving all question as to the constitutionality—is it expedient for the legislative branches of the Government to interfere in the case? Without denying or attempting to settle the right, is it expedient?

The case is different from that of the last session. The resolution of the gentleman from Virginia (Mr. RANDOLPH) in that case, went only to approve the conduct of the President. To sanction "the promptitude and frankness with which he met the overtures of Great Britain towards a restoration of harmony, and a free commercial intercourse between the two nations."

This resolution not only approves the conduct of the President, but condemns and censures, in the harshest terms, the conduct of a public Minister, and, provisionally, that of his Government. It does not follow, because it would have been proper and expedient to pass that resolution, that it would be to pass this. Any gentleman, with perfect consistency, who advocated that, may oppose this. Again: By the Constitution, the President is to "receive Ambassadors and other public Ministers." It is the peculiar province of the Executive to receive, negotiate with, and dismiss, if they conduct improperly, public Ministers. What have we to do in the case? The Minister, Mr. Jackson, it seems, has offended our Administration; the Administration has punished him, by putting an end to the negotiation and dismissing the Minister. I ask, again, why should we interfere? If any foreign Ambassador, entitled to enjoy the privileges of a public Minister within the United States, conducts in a manner inconsistent with his character as a public Minister, the President has, unquestionably, a right to dismiss him. If he commits an act contrary to the laws and usages of nations, the President may send such offending Minister out of the United States; and, in certain cases, may send him home to his Government. The President, in my opin-

ion, has all this authority by the Constitution, without any law on the subject. This authority is given by the Constitution by necessary implication. The principle is, that wherever the Constitution or a law makes it the duty of a person to do a certain thing, it, by implication, gives him all the authority necessary to enable him to do the thing with propriety.

In the present case, if the President has not gone far enough; if he has not sufficiently censured Mr. Jackson; if he has not punished him in due proportion to his offence, by breaking off all correspondence with him and dismissing him, let him proceed to send him out of the country; and, indeed, if the President thinks proper, let him send the Minister home to his Sovereign. It is a subject within his sole province, and it is to be managed according to his discretion; and to him belongs the whole responsibility. On the other hand, if Mr. Jackson has already been sufficiently chastised by the Administration, why should we step aside from our appropriate sphere, to add to his chastisement? If we pass the resolution on your table, we punish him in his public and in his private character. He, in the course of this debate—with how much propriety I will not say—has been called the Copenhagen Jackson, a legalized spy, &c.

But, Mr. Speaker, if we are to interfere at all, why do we do it before we know whether his Government will justify his conduct? This is leaping, indeed, before we come to the stile. Is Congress, as the gentleman from North Carolina (Mr. STANFORD) observed, in debate, the other day, to oppose itself to Mr. Jackson, as an individual? For Congress to marshal itself against a single individual, is derogatory to the dignity of the American nation.

However, sir, the resolution is such a one as I cannot approve or vote for, on account of the provisional declaration of war contained in it, if I had no other objection to it. It is calculated to compel Great Britain, whether she be disposed to or not, to justify the conduct of Mr. Jackson. It is not to be denied, that Great Britain is a proud nation—a nation that has high and lofty notions of honor. And there is an etiquette as to the point of honor among nations, as well as individuals. If you apply to an individual, whose servant has done you an injury, and threaten him with chastisement in the outset, if he justifies the servant, he will not condescend to consider whether the servant has done right or wrong. He, perhaps, will reply to you, that when you come to him in a manner conformable to the rules of decorum, he will take the case into consideration; until then he has nothing to say to you. This is a principle founded in human nature, and it applies to nations as well as to individuals.

Now, sir, the President is confident that Great Britain will condemn the conduct of her Minister. In the fifth page of the Message of the President, of the 29th of November last, we find him expressing himself on this topic, as follows:

"And it would indicate a want of the confidence due to a Government, which so well understands, and

exacts, what becomes foreign Ministers near it, not to infer that the misconduct of its own representative will be viewed in the same light in which it has been regarded here."

Why shall we refuse to give Great Britain a fair opportunity to fulfil the expectations of our Executive? Why do we threaten "to call into action the whole force of the nation," if the British Government shall presume "to stand" by Mr. Jackson? Why, indeed, do we threaten with war that nation, if she shall dare to justify her Minister; for the resolution on your table amounts to that—I cannot understand it otherwise? Indeed to my mind, it will not admit of any other construction. Do we really mean to go to war with Great Britain about these *insinuations*, after all the encroachments upon our neutral rights—the injuries and the outrages on the real causes of war, that gentlemen talk so loud about? Why, sir, the people will not very well understand this. Our yeomanry will not very well like to support a war waged upon so nice and punctilious a point of honor. The farmers will not wish to yield up their hard earnings, their cattle, their grain, the varied produce of their labors—the fruit of the sweat of their brows, to support a foolish and fantastic war, about "expressions implying an insinuation" and expressions, "conveying an idea," and all the other shadows of shades of diplomatic etiquette.

Again: It is within the province of Congress to decide when this nation shall, in fact, go to war. The Constitution says, Congress shall have power to declare war, &c. Ought we, sir, before we come to the question, to commit ourselves? Shall we be a proper, an impartial tribunal, to decide the important, the awful question, whether we shall have war with Great Britain, in case she should justify the conduct of her Minister, Mr. Jackson, if we pass the resolution? No, sir, we shall have committed ourselves—we shall have pledged ourselves for war, at all events.

But, sir, the resolution not only amounts to a conditional declaration of war against Great Britain, but it is at war with the President's Message, at the opening of this session of Congress, and with the Secretary's letter of the instructions to Mr. Pinkney, of the 23d of November last. The President, speaking of the rupture with Mr. Jackson, in the fifth page of the Message, says:

"The British Government will learn, at the same time, that a ready attention will be given to communications, through any channel which may be substituted."

In the 88th page of the printed document, we find the President's Secretary addressing our Minister at London, as follows:

"You are particularly instructed, at the same time, in making those communications, to do it in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means the best calculated to establish the relations of the two countries on the solid foundation of justice, of friendship, and of mutual interest."

Shall we, sir, counteract the President, by ob-

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

structing the channel of farther negotiation, while he is endeavoring to keep it open? While he is presenting the olive branch of peace, shall we, by passing this resolution, fulminate a declaration of war? Must there forever be some stumbling-block thrown in the way of adjusting our controversies with Great Britain? I hope not.

But, were there no other difficulty with the resolution, I could not vote for it, on account of the very awkward situation in which it will place the President. This has been stated and illustrated by a gentleman from Connecticut, (Mr. PITKIN.) The two Houses might, separately or jointly, approve the conduct of the President in the form of separate addresses, or a joint address, without reducing him to the very ridiculous dilemma, of putting his signature, officially, to a resolution pledging himself to stand by himself, or, by omitting to do it, virtually refusing to stand by himself. A joint address, according to a rule of the House, might be presented to him in his audience chamber, by the President of the Senate, in the presence of the Speaker and both Houses.

I have, sir, intruded much longer on the patience of the House than I intended. The magnitude of the subject, and the deep impression it has made on my mind, form my only apology.

I have attempted to show what was the real question before the House, and how far the various topics, discussed in the course of this debate, were irrelevant.

First. As the supporters of the resolution have wholly failed to make out the charge against Mr. Jackson; and, as I believe in my conscience, it is false, I cannot vote for the resolution.

Secondly. Going upon the ground, for argument's sake, that the charge alleged against Mr. Jackson in the resolution was true, I have endeavored to show that it would be inexpedient to pass it.

In the third place, I have attempted to evince, that the resolution ought not to be adopted, because it amounts to a conditional declaration of war.

I have stated various other points in the resolution, on account of which I could not vote for it.

Indeed, sir, it is, in my opinion, so bad and mischievous in all its bearings and consequences, in the matter and in the form, that I feel it my duty to protest, most solemnly, against it.

Mr. TALLMADGE.—If, at this late period of the debate, any gentleman can rise and address this House, believing that he can command their attention, he has more confidence in himself than I have. If I can throw any light upon the subject, in the remarks which I shall make, so that gentlemen shall be induced to give it a more thorough investigation, it will afford me peculiar satisfaction. Although I cannot promise the House that I shall occupy ground entirely new, on a subject which has been so long and so ably discussed, yet, I hope I shall be able to present it in a light somewhat new. If I should be so fortunate as to induce gentlemen to pause and to reflect, although they may not consent to *reject* the resolution

now on the table, I cannot but hope that a majority may be found to *postpone*.

It was my intention, sir, at an early stage of this debate, to have submitted my view of the correspondence between the Secretary of State and Mr. Jackson. If I could have obtained the floor, I intended to have examined the late arrangement made with Mr. Erskine, and the nature and extent of the powers under which he acted, inasmuch as the correspondence in question grew principally out of those subjects. I feel confident, from a careful examination of the whole correspondence, that the insult, complained of by Mr. Smith, and asserted in the resolution, cannot be found; or, if insinuations have been made which induced his dismissal, still the resolution on your table cannot be justified.

The subject of the late correspondence has been so thoroughly discussed, that the bare recital of those letters has become unpleasant to some, and absolutely disgusting to others. My principal object in making any remarks at this time, is to induce gentlemen to reflect before they vote, and not to suffer themselves to be misled by passion or prejudice, either of party politics, or from the recollection of grievances which Great Britain may have inflicted; but to examine the resolution with coolness, and then determine whether, on principles of fair construction, it can be justified by the correspondence on which it is professedly founded. The great object of our assembling here, is to communicate our sentiments freely to each other, for our country's good, and if we are faithful to ourselves and to our constituents, their peace and happiness will be kept continually in view.

In considering the question now pending before the House, two broad propositions, or inquiries, would embrace all the remarks I had purposed to submit for the consideration of this assembly, viz:

First. Whether the declarations contained in the resolution now under debate, are substantially founded in truth?

And secondly. Is it expedient, at this time, to adopt them?

Before the motion for an indefinite postponement was made, I should have thought it proper to have examined the first proposition very minutely. But, on a motion of postponement, it does not appear to me to be strictly within the rule of orderly debate, to discuss the main question, although, by your indulgence, Mr. Speaker, and the permission of this House, I know it has become the practice. From this view of the subject, I will pass over all that part of my argument which relates to the first proposition; in doing which, I persuade myself, I shall relieve some gentlemen from attending to a painful investigation. I cannot, however, wholly dismiss this part of the subject, without calling the attention of the House to one important fact, which, by the resolution, is made the *climax of insult*. It is therein asserted, that Mr. Jackson had published and circulated through the country a circular letter dated 13th of November, 1809, calculated, through false and fallacious disguises, to excite distrusts amongst the people, and resentments against their Govern-

ment, dishonorable to their character, and ruinous to their interests. I solemnly ask this House to inquire, on what this bold assertion rests. Admitting the fact, that Mr. Jackson wrote the letter thus alluded to, to the Consuls of His Britannic Majesty, where is the proof that it obtained publicity by his direction? Is it not incumbent on the advocates of the resolution to prove the fact, before they venture thus solemnly to assert it? Sir, I have no hesitation in declaring that, on this point, we are without the least evidence to support the declaration, and, of course, that it would be assuming and undignified in this House, to suffer that part of the resolution to remain upon their files.

I now proceed to the second point of inquiry, viz: is it expedient to adopt the resolution at this time, and in its present form?

As the question is presented to my mind, I shall consider and discuss it in a three-fold aspect.

First. As it respects the President of the United States.

Secondly. As it respects the people of the United States.

And thirdly. As calculated to bear upon Great Britain.

Although I should occupy some time in examining these three positions, I hope the House will do me the justice to acknowledge that I do not frequently claim their attention in this way.

I proceed, then, to consider the resolution in relation to the President of the United States. It will be necessary, while attending to this part of the subject, to bear upon our minds the peculiar structure of our Government. That I may illustrate my ideas with greater precision, I beg gentlemen to turn their attention to that part of the Constitution where the great legislative functions of the Government are defined. It will occur to every gentleman, that the Legislature consists of the Senate and House of Representatives, and that the President of the United States makes a third branch, having a qualified negative on all our laws. But the President has one peculiar and essential feature in his character; that is, that he has the sole power of receiving foreign Ministers, and the implied right of dismissing them whenever he shall think proper. What has he done in the case, which originated the resolution? He has received Mr. Jackson, the British Minister, in due form, and at a period when he thought proper, he has notified that Ambassador, that no further communication would be received from him. Thus far, the proceeding appears to have been carried on within the Constitutional power of the President. Now, sir, what are we called on to perform by the resolution on your table, which, I trust, every member has read, and heard read, over and over again? We solemnly pledge ourselves to the nation and to the world, to stand by and support the Executive Government in its refusal to receive any further communications from Francis J. Jackson, and to call into action the whole force of the nation, if it should become necessary, in consequence of the conduct of the Executive Government in this respect. Can gen-

tlemen be serious, when they declare that it is necessary for the Legislature to play off this solemn farce to repel a supposed insult, offered to our Secretary of State by a foreign Minister? Is it not rather to fulminate the denunciations of Congress against the Minister, who cannot now be heard in his defence? I am constrained to pronounce the measure, now proposed for our adoption, to be wrong in principle, and unsupported by fact; for I must insist upon it, that, as the House of Representatives, we have nothing to do in this business. His Sovereign has sent him on a mission to this country, and our sovereign, so far as we have one, has received him, and dismissed him for alleged misconduct.

But I have another pointed objection to the resolution, which induces me to urge its indefinite postponement. It purports to be a joint resolution of the Senate and House of Representatives of the United States. In the Constitution of the United States, article one, under the 7th section, are found these emphatic words:

"Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, except on a question of adjournment, shall be presented to the President of the United States, and before the same shall take effect, shall be approved of by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of bills."

Now, sir, what is proposed to be done with this resolution? Having come to this House, under the sanction of a co-ordinate branch of the Legislature, we are now called upon to adopt it in the House of Representatives. After this shall be done, (which, Heaven forbid!) probably the Committee on Enrolled Bills will present it to the President of the United States for his approbation and signature. Suppose, sir, the President should refuse to sign it; is there a Constitutional majority on this floor who would be willing to repass it, and thus place the President in so delicate a situation, as to declare that he would stand by and support himself in his Executive conduct? I hope not. But the President, with great propriety, might inform Congress that, in his Constitutional character, he had done all that was necessary to be done on the subject. He might further tell us, that we had no right to interfere with his duties in this case; that the Constitution gave us no control over foreign Ministers, but had vested in the Executive the sole right of deciding in relation to their functions. Could any gentleman, holding the Constitution in his hand, dispute the correctness of such conduct, on the part of the President? Surely not, sir. Do not gentlemen recollect (for some who are now present were members of the House of Representatives at that time) the case which occurred in the year 1796, when the illustrious WASHINGTON presided, and the House made a call for papers? The honorable the Speaker, who now presides over the deliberations of this House, was then a member, and I find, by the Journal, he was among those who favored the call. To illustrate this point, I

JANUARY, 1810.

Conduct of the British Minister.

H. of R.

will, with permission of the House, turn to the Journal of that year. On the 24th of March, 1796, in reference to the Treaty which Mr. Jay had made with Great Britain, we find the following extract :

"*Resolved*, That the President of the United States be requested to lay before this House a copy of the instructions to the Minister of the United States, who negotiated the Treaty with the King of Great Britain, (communicated by his Message of the 1st instant,) together with the correspondence, and other documents, relative to the said Treaty, excepting such of the said papers as any existing negotiation may render improper to be disclosed."

To this request, that great and good man made the following reply, selecting only such parts as have a bearing on the present question :

"With the utmost attention, I have considered your resolution of the 4th instant. In deliberating upon the subject, it was impossible for me to lose sight of the principle which some have avowed in the discussion ; or to avoid extending my views to the consequences which must flow from the admission of that principle. I trust that no part of my conduct has ever indicated a disposition to withhold any information which the Constitution has enjoined upon the President as a duty to give, or which could be required of him by either House of Congress as a right. And, with truth, I affirm that it has been, and it will continue to be, while I have the honor to preside in the Government, my constant endeavor to harmonize with the other branches thereof, so far as the trust delegated to me by the people of the United States, and my sense of the obligation it imposes, 'to preserve, protect, and defend, the Constitution of the United States,' will permit."

"As it is essential to the due administration of the Government, that the boundaries fixed by the Constitution between the different departments should be preserved ; a just regard to the Constitution and to the duty of my office, under all the circumstances of this case, forbid a compliance with your request."

"GEO. WASHINGTON."

These were the sentiments of that illustrious personage in the year 1796. When a call was made by the House of Representatives, for almost anything not palpably wrong in principle, it needed the wisdom of the statesman, and the fortitude of the hero, to refuse a compliance. WASHINGTON had the firmness, from a sacred regard to the Constitution which he had sworn to support, to resist that call, although supported by this popular branch of our Government. I well remember the impression which this conduct of the President made upon my mind, as well as the remarks which were made by my countrymen on that memorable occasion. Give me leave, sir, to apply that precedent to the present case. President WASHINGTON thought that the House of Representatives had no right to interfere with the peculiar function of the President of the United States, of which he judged the call, then made, was a case in point. It does not appear to have been any objection, in his mind, that an exposure of the correspondence would have been injurious to the Government ; but it was an improper interference with the duties of the Executive Department which induced the refusal. This is pre-

cisely my view of the present case ; and, under that impression, I object to the resolution, and, for that reason, urge its indefinite postponement.

I know it has been said by some, who advocate the passage of this resolution, that, by the Constitution, the Congress of the United States is defined, as consisting of the Senate and House of Representatives ; but, if gentlemen will examine the powers vested in Congress, they will be convinced that it requires the three branches of the legislative government, to give them proper effect. Hence, I infer that the resolution, if adopted, must be sent to the President for his approbation and signature.

Again : Suppose the resolution should be presented to the President, and he should neither sign nor return it, I inquire, where shall it be found, and what would be its true character ? If it was a bill, the Constitution has provided for this case ; but if a joint resolution, I know not what will become of it, unless it goes through the same formalities. As I do not wish to embarrass the President with so delicate and so novel a case, I hope it will be indefinitely postponed.

I have another objection to this resolution, inasmuch as I believe it is without a precedent in the annals of our country. On examining the Journals of this Government, I have found no case which compares with the present ; and, until gentlemen shall turn us to the case, I must believe no such instance exists. I know the cases of *Genet* and *Yrujo* have been quoted, but I contend that each of those cases, so far from militating against, do, in fact, serve to establish my position. Omitting to detail the atrocious conduct of *Genet*, what was done in relation to him on that memorable occasion ? The President of the United States, on being informed of his outrageous conduct, in his Executive character alone, took notice of it, and requested the recall of the Minister. But no vote nor resolution was passed by the Senate or House of Representatives sanctioning this conduct of the Executive, nor does it appear that any motion was made in either House to this effect. So, also, in the case of *Yrujo*, although his insult was palpable and direct, the Executive Magistrate alone took notice of the offence, and no aid or interference was called for, or given, by the House.

It has also been urged, that the approbation proposed to be given by this House to the President of the United States at the last session, is similar to this. What was that case, sir, and what was the resolution proposed ? The resolution was offered by a gentleman from Virginia, and is in the following words :

"*Resolved*, That the promptitude and frankness with which the President of the United States has met the overtures of the Government of Great Britain towards a restoration of harmony, and a free commercial intercourse between the two nations, receives the approbation of this House."

I trust, Mr. Speaker, I need not compare the two resolutions to convince every gentleman present, that there is no similarity between them. One was intended to express the opinion of the

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

House of Representatives alone; the other is a joint resolution to be passed by the Senate and House. One was a simple vote of approbation of an act of the President of the United States, with which nothing further was to be done, than to present it to him as an expression of our public approbation of his Executive conduct; the other is a denunciation of a foreign Minister, accompanied with a threat, that we will go all lengths in support of this conduct. If nothing more was intended by this joint resolution, than to assure the President of the support of both branches of the Legislature, surely this would not be the correct course. A joint address, or separate resolutions, would better express our opinions on the occasion. This would be a measure entirely different from the joint resolution now proposed to be adopted.

Having examined the resolution in relation to the President of the United States, I come to the second proposition, which was to consider the bearing it would have upon the people of the United States. If it can be shown that no good can possibly result to the people of the United States from the passage of this resolution, I presume it will be sufficient to induce gentlemen to pause; but, if I should be able to prove, not only that no good can result, but that it is fraught with manifold evils, I hope the House will consent to postpone. Let us, then, in the first place, inquire, what good can result from the adoption of this measure? Do gentlemen expect, by passing this resolution, to give further information to their constituents, respecting our foreign relations? Will it throw any light on the correspondence between the Secretary of State and the British Minister? It certainly is not calculated for that purpose. The resolution abounds with certain bold asseverations, not, in my opinion, founded on fact, and gives no new information whatever. If no new information is communicated, I inquire, in the second place, is it calculated to rouse the dormant spirit of the country? From the violent remarks of some gentlemen, I should suppose this must be one principal object in view, or why should the case of *Jonathan Robbins, the murder of Pierce, and the attack on the frigate Chesapeake*, be so frequently brought up to view? Why, but to inflame the minds and irritate the passions of the people, are our ears greeted with such animated harangues, which can have no possible bearing on the present question? If, indeed, this course has become necessary to raise the public indignation up to *war proof*, then is the pride and glory of our country departed; we are fallen, indeed. Can it be possible that it has become necessary for this Government to collect the most illiberal and opprobrious language, and fulminate the same, in the form of a joint resolution, against a foreign Minister, to rouse the passions of the people against the Sovereign and nation which he represents? Sir, such an attempt must be beneath the dignity of this House, and therefore cannot be the object of this resolution.

If, then, no good can hopefully result, are there

not evils to be apprehended, if the resolution on your table should be adopted? All attempts of this sort are calculated to waste the national character; to hold up to view a prominent fact, which I utterly disclaim, that we are to emblazon our own glory by resolutions and proclamations. This, in my judgment, is a great evil, and the people have viewed it in the same light for many years. I wish to see an end to everything of this sort. National honor is a treasure of vast importance to a country, of too much value to be trifled with; and a treasure, too, however vast, that ought not to be drawn upon, but with a sparing hand. If we make too heavy drafts upon it, we shall depreciate its value, in the opinion of the world, and certainly in our own.

As another evil, resulting from this resolution, I am almost constrained to believe that it is meant for nothing but gasconade, as it relates to ourselves. What possible good, sir, can it accomplish? Is it not most apparent that its object cannot be beneficial to our country; that, in truth, it can effect nothing; and, of course, that it is good for nothing? We have resolved over and over again, until the subject has become stale and unpalatable to our constituents. They have heard and seen so much of this national bombast, that they have become fatigued by the farce.

Another weighty objection against the resolution is, that it is couched in harsh, uncourtly, and illiberal language. Can this course have become necessary to heal the wounded honor of our Government? I do maintain, sir, that, from the commencement of our struggle for independence, we stand on high ground in respect to our State papers. The resolutions and addresses of the Old Congress, as well as the correspondence of our public functionaries with foreign Ministers, and especially the addresses of General WASHINGTON to his fellow-citizens and fellow-soldiers, for soundness of matter and eloquence of composition, stand unrivalled in the history of the world. This is a treasure of literary reputation of which I would not deprive my native country by passing this resolution. I utterly object against lavishing this rich fund of national character on such pitiful resolutions as these.

Having dismissed the two first propositions, I beg leave to call the attention of the House to the third and last, which was, to consider the bearing this resolution is calculated to have on the British Government. I will carefully endeavor to avoid entering into the relative merits of the correspondence, as I promised at the outset, although it may be necessary occasionally to glance at it, for the purpose of elucidating this part of my subject. If, indeed, an insult has been offered to the Government by Mr. Jackson, the President has done what he thought proper on the occasion, and I would not revise his conduct. I am not disposed to arraign the conduct of the President of the United States in this instance, for he is not on trial before this august tribunal; nor do I mean to arraign the Secretary of State, for he is not on trial; nor do I stand here to justify the conduct of the British Minister. I stand on

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

much higher ground. I appear, in my place, before this honorable House, to prove the impolicy, as well as inexpediency, of adopting this measure, and thereby to avert evils which, I fear, may result from it. I say, then, that the conduct of the President, in relation to Mr. Jackson, is founded on a right, inherent in the Executive, to dismiss a Minister when he thinks proper, and of this he must of necessity be the judge, and acts upon his own responsibility. All this may be done, and has been done before, without any very serious consequences resulting to the nation. But when the measure assumes the form contemplated by the resolution, the Government and people of the United States become parties to the quarrel, and this gives a new aspect to the procedure. When the supposed insult was given, the President of the United States put an end to all farther communications from Mr. Jackson, deeming him unworthy, if you please, to hold any farther correspondence with the Executive Department of our Government.

After this had been done, what further information do we get from the Secretary of State? If gentlemen will turn to his letter, addressed to Mr. Pinkney, our Minister at London, under date of November 23, 1809, they will find the precise view in which it appeared to the President, who undoubtedly dictated that letter. I will only quote the last paragraph of Mr. Smith's letter, found in page 88, of the printed documents, to elucidate this point of my argument:

"The observations, to which so much extent have been given in this letter, with those contained in the correspondence with Mr. Jackson, will make you fully acquainted with the conduct and character he has developed, with the necessity of the step taken in refusing further communication with him, and with the grounds on which the President instructs you to request that he may be immediately recalled."

That part of the letter to which I beg the House particularly to attend, is the following paragraph:

"You are particularly instructed, at the same time, in making those communications, to do it in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means the best calculated to establish the relations of the two countries on the solid foundations of justice, of friendship, and of mutual interest."

I beg solemnly to appeal to the candor of the House, and to ask the question, whether the resolution now on the table follows up the spirit of the letter from Secretary Smith to Mr. Pinkney? Can it be possible, sir, after the President has directed that a communication of the circumstances should be made to the British Government in such a manner as should preclude offence, that gentlemen can attentively peruse that letter, and then vote for this resolution? I will confess myself mistaken in the conclusion to be drawn from premises fairly stated, if this can be the case. What does the resolution amount to, Mr. Speaker? I forbear to quote the particular expressions of it, for really, sir, it appears to me to contain more virulence and insult than gentlemen are aware of. The language of this formidable State

paper, addressed to the British Government, is essentially this: You have sent a Minister here to insult our Government; and, to avenge the insult, we solemnly pledge the whole force of the nation. Are gentlemen prepared deliberately to say this? Is this what gentlemen mean by passing the resolution, or do I mistake its language? Nothing on earth is more easy (and surely we have proved it more than once) than to resolve that we are a great and powerful nation, feelingly alive to a sense of our own honor and importance, and, if you please, that we are the wisest nation on earth. Such measures as these may, for a time, serve to amuse and please the people; but we are now transacting business, of no minor importance, with a great and powerful nation; with a Government jealous of its honor; and it becomes us to weigh well the extent and meaning of this resolution. If it contains language which no gentleman would feel at liberty to make use of to another, one nation, *a fortiori*, ought not to use it in its intercourse with another. Injuries and insults of this sort cannot easily be submitted to, and, in the present instance, I presume, will not pass unnoticed.

I know it has been said, that a case very similar to this occurred in the British Government. The case of De Palm, the Austrian Ambassador, has been quoted. If I am not very much mistaken, the two cases bear but a very slight resemblance. It will be recollected that, in the year 1726, when the House of Hanover was first established, and George I was on the throne, and several of the European Courts were friendly to the Pretender, De Palm made a formal address to the British Court, in reply to the King's speech from the throne. By express orders from the Austrian Court, this address was published, by way of manifesto to the British nation, in which the King was charged with having uttered palpable falsehoods, to induce his subjects to go to war. This seems to have been briefly the fact; and what line of conduct was pursued by the King in consequence of this appeal? The Austrian Minister was ordered, forthwith, to leave the British dominions, and, I believe, all will say, with the utmost propriety, too. But what followed this? The House of Lords and the House of Commons presented a joint address to the King, assuring him of their loyalty, &c. But this was not all; they saw that war was intended, and they followed up their address by a vote of liberal supplies to meet the exigency, and by raising a large army, and equipping their navy. I ask, then, sir, with much solicitude, is this the precursor of a plan to array our fellow-citizens in arms, and to equip our formidable navy and gunboats for the conflict? Or can it be soberly the view of this House, by such a resolution, to prostrate the public character of Mr. Jackson? Surely, sir, it must be unbecoming the dignity of Congress to assail the character of an individual, a stranger in our country, and protected only by the laws of nations. The supposition is too humiliating, and I cannot and will not believe it. I have another objection to this resolution, inas-

much as it has an aspect to war, through the Executive. The power of declaring war is lodged, by the Constitution, in the Congress of the United States; nor can this power be delegated to any person or persons whatever. As I would not, in any shape, authorize conduct in an individual that might lead this country into a war, so I would cautiously avoid countenancing the Executive in such measures as might bring on a war, without the express consent of the Legislature.

In all the aspects in which I have been able to present this unfortunate measure to the House, it seems to be productive of no good to the United States. Another evil, which most probably will result from it, is, that it has a tendency to widen the breach between this country and Great Britain. Of however little importance some gentlemen may consider a good understanding between the two countries, I confess I deem it to be of such vast importance, that I would throw no obstacle whatever in the way of an amicable negotiation. The President has thought proper to present this case in a pacific manner to the British Government, and I would not widen the breach so long as the door is open to accommodation. But pass the resolution, and let it receive the signature of the President, and I very much misjudge if we speedily have another opportunity to negotiate with that nation. We seem, indeed, to be peculiarly unfortunate in all our attempts to negotiate with Great Britain. In illustration of this remark, I beg leave to quote one or two extracts from the correspondence between Mr. Smith and Mr. Jackson. To enable gentlemen more fully to comprehend the force of Mr. Jackson's remarks, and, to show that they all have a most pointed bearing on the misunderstanding which finally took place, I will request the House to indulge me in reading only two paragraphs from the letters of Mr. Smith to Mr. Erskine, dated April 10, 1809, preparatory to the late arrangement. At the commencement of that correspondence, Mr. Erskine declares that he had received His Majesty's commands to offer an honorable reparation for the aggression committed by a British naval officer, in the attack on the frigate *Chesapeake*. The Secretary of State, in reply, says: "As it appears, at the same time, that, in making this offer, His Britannic Majesty derives a motive from the equality now existing in the relations of the United States with the two belligerent Powers, the President owes it to the occasion and to himself, to let it be understood that this equality is a result incident to a state of things growing out of distinct considerations." As if the Secretary of State was determined to impress a belief that the non-intercourse law did not originate in motives of strict impartiality towards the two great belligerents, (for that was the precise ground taken by Mr. Erskine when he made the first overture,) but that it grew out of "distinct considerations."

In the same letter, the Secretary goes on farther to say:

"But I have it in express charge from the President to state that, while he forbears to insist on a further

punishment of the offending officer, he is not the less sensible of the justice and utility of such an example, nor the less persuaded that it would best comport with what is due from His Britannic Majesty to his own honor."

Sir, has it really come to this, that the President of the United States conceives himself to be the keeper of the King's honor? I beg leave soberly to inquire, what could have been intended by these sentences? Had such language been made use of to our Government, with that peculiar fastidious jealousy which we seem to entertain for our national honor, I presume we should all have agreed that it was meant as an insult. I can hardly conceive how Mr. Erskine could have viewed it in any other light towards his Sovereign and nation. Indeed, sir, it seems that His Britannic Majesty was not so dull of apprehension, but that he discovered the lurking insult, and, for that reason, would not ratify that part of the arrangement. I am borne out in this conclusion, by an extract from Mr. Jackson's letter of the 11th of October, 1809, in which he says:

"I touch, with considerable and very sincere reluctance, upon that part of your letter in which you state that I had not assigned any reason whatever, why the reasonable terms of satisfaction tendered, and accepted, have not been carried into effect."

"I believe that I had observed to you, in the words of my instructions, that if His Majesty were capable of being actuated by any desire to retract an offer of reparation which he had once made, His Majesty might be well warranted in doing so by the *form* in which his accredited Minister had tendered that reparation, and by the *manner* in which that tender had been received. I believe that I elucidated this observation by a reference to the particular expressions which made the terms of satisfaction appear to be unacceptable even to the American Government, at the very moment which they were accepted, and which, at all events, put it totally out of His Majesty's power to ratify and confirm any act in which such expressions are contained."

Could it have been possible, Mr. Speaker, when Mr. Smith wrote the letter to which Mr. Jackson refers, and from which I have quoted an extract, that he could soberly suppose his Britannic Majesty would not feel wounded by our saying what would or would not best comport with his honor? I cannot view it in any other light than an indirect attempt to prevent negotiation, and, in this way, to prevent an adjustment of that most unfortunate affair. I mention this, to show that there is a sort of *fatality* (and when I use this expression, I choose it as the least offensive phrase I can select to convey my meaning,) attending our negotiations with the British Government. It seems as if we always must throw into the scale some dead weight, to overbalance every accommodating proposition; and that, for this purpose, when an amicable adjustment is proposed, we must *insult* as we go along. I cannot sufficiently lament this unfortunate situation of our affairs.

But, above all, and as the most serious and solid objection I have to this resolution, and which imperiously demands its indefinite postponement, I think it does contemplate a course of measures

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

which will lead us to war. I do not mean to be understood that this resolution amounts to a declaration of war; but, sir, so far as I have been able to examine this subject; as far as I can trace the objects and bearing of the late correspondence, from its commencement to the dismissal of Mr. Jackson, and especially the resolution purporting to grow out of the correspondence, my mind is strongly impressed with the concurrence of circumstances tending to involve this country in a war with Great Britain. Against this dreadful, this most unfortunate event, I here enter my most decided and solemn protest. I know, sir, we have been repeatedly told that this is not the intention of this resolution. Every gentleman has read it, and must expound it for himself. I say, then, that the tendency of this resolution, is to lead us into that situation from which we cannot honorably retreat short of a war. In saying this, I impeach no man's motives; but if the resolution does not carry in it the very seeds of war, which, in due time, will vegetate and bear its destructive fruit, then have I no judgment in things of this sort. Indeed, sir, I presume I shall not be considered as going too far, when I assert that the very parent of this spurious offspring (Mr. GILES) has openly avowed his object to be war. How much short of this have some gentlemen come, who have advocated the passage of this resolution in this House? We must make great allowances for national feelings. We are not here to establish a standard for the British nation, or to suppose that the question of peace and war rests with the Parliament as it does with Congress. Let an insult be offered to the King, and to the British nation through him, and if he does not make war upon you, I do not understand the nature of that Government, nor the jealous light in which they view their national honor.

Whatever insults may have been offered to the Executive, through the Secretary of State, I do maintain it that the resolution is not the legitimate offspring of the correspondence, and, of course, cannot be justified on that ground. There is enough of irritation on both sides, but its language is absolutely courtly, compared with this resolution. Believing that some of the friends, as well as the mover of this resolution, mean it as a measure leading to war, and, deploring such an event as most calamitous to our country, I should be more than culpable if I did not raise my voice, and exert my feeble efforts, to expose it, and thus, if possible, to avert the evil. It is, therefore, from the most solemn conviction of duty to my constituents and country, that I do thus strenuously oppose so impolitic, so mischievous a measure.

It is a painful consideration to me in another view, that I am compelled to oppose every measure that has a tendency to produce a state of war. I sincerely wish I had good reason to believe that our country is in a situation, not only to defend itself, but to maintain its character and rights through the world. But let me ask, is this the fact? Is the state of the Treasury such as to justify you in plunging this nation into a war? Can it be possible that gentlemen, after reading the

Message of the President of the United States, and giving credit to the report of the Secretary of the Treasury, can say that we are prepared for war with one of the most powerful nations on earth? What is the present state of your army? Have you a body of troops equal to the emergency, if war should speedily ensue? What is the state of our fortifications? A report upon that subject has been laid upon your table, and I trust the gentlemen of this House know what it contains. Are they in a suitable condition to meet a war? What is the present state of your navy? Are your frigates in a condition to protect and scour our coasts? Of your gunboats I will say nothing, only that the greater the number, the less efficient should I consider our naval force; inasmuch as our resources, both in men and money, would be diverted to an object in which I have but little confidence in the hour of trial.

Sir, I do consider it utterly impossible that there should be any diversity of opinion in this House, or among our constituents, on the great question of defending our country. Whatever may be the jealousy of parties, or whatever difference of opinion may exist on minor subjects, on the great question of defending our nation against any invaders, there can be but one opinion. To talk of a reluctance in any part of this House to defend the country against any nation on earth, is preposterous in the extreme. If Great Britain should make war upon us, I trust we shall be united in the arduous conflict, although, in the measures leading to it, we are, and shall be, divided.

For the honor of my country, I could most devoutly wish that all party feelings were done away, not only in the House, but through the nation; and that our country's good engaged our joint concern. Inasmuch as this resolution has a tendency to excite those evil passions, and to bring them into exercise, I do exceedingly regret that it has ever been offered for our consideration. Believing, most conscientiously, that the direct and natural tendency of this resolution is to promote discord among ourselves, when harmony is so essentially necessary; and also to bring us into collision with Great Britain—I do most heartily hope it may be indefinitely postponed. So far as it has even a doubtful aspect to such an issue, I do most heartily detest it as an evil, of all others, best calculated to destroy the peace and happiness of this country.

Let it not be said by any man, that war becomes necessary every thirty or forty years, to maintain and support the party in power. This is too ridiculous to need serious refutation. It has long been an adage of statesmen, that the Administration cannot conduct a war, and make a peace. It cannot, therefore, be the policy of the party now in power to drag this country into a destructive war to support their own popularity. Whatever may be my views of the present dominant party, if nothing short of a war could correct or overthrow them, I should say the price is too high; as an honest native American, I should pronounce the premium too great.

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

From some remarks which have been made during this debate, one might be led to suppose that the valor of the nation belonged to one party, and laid almost exclusively on one side of this House. I trust this is rather a peculiarity of expression, in the ardor of debate, than the sober sentiments of those who utter them. Gentlemen cannot be supposed to mean that there is no honor nor valor in those who oppose this resolution. If we should, indeed, be obliged to buckle on the harness, I hope we shall be able to show the world that we are engaged in a righteous cause; that war is brought to our very doors, without needless provocation on our part. In such a war, I venture to assure you, there would be no want of spirit in our country. You and I, Mr. Speaker, as well as others on this floor, have seen our countrymen in hard and perilous times, and such as were calculated to try men's souls. We cannot have forgotten the conduct of Americans in the Revolutionary war; and if, unfortunately, such another conflict should become necessary, I feel confident that a patriotism and zeal not less meritorious would animate every bosom. It is a high sense of national honor, and a spirit of resistance to every encroachment on our sovereignty and independence that I wish to inculcate, in comparison with which all other is selfish, mean, and contemptible. Some gallant knights may be willing to see this country engaged in war, that they may have an opportunity to enrol their names among the heroes of the age. My ambition, thank Heaven! leads me to no such doubtful and dangerous experiments; but if any man on this floor will risk more for his country than myself, he has more than one life to lose. We are all embarked in the same cause, for the support of which I would hazard everything this country possesses, and all that I hold valuable or dear.

This is really a question too solemn, too important, too big with the fate of this country, slightly to be passed over. I am satisfied gentlemen do not view it in the serious light that I do, or that resolution would never have been sustained in this House for a single day. I feel persuaded, if gentlemen would suffer themselves to consider what is due to each other on the score of civility; if they would but reflect that there is a considerable portion of this House who view the resolution on your table as carrying with it evils dark as Erebus, and which, in due time, will burst on our common country; if they could be brought to see that this is not merely a vote of approbation, but a solemn sanction of the Government, in a case, at best, somewhat doubtful, with a pledge of our national resources to support it, there is candor and good sense enough in this House to postpone it indefinitely. I, once more, call on this House to pause and reflect; for, be assured, it is no ordinary question which demands your attention. It, most assuredly, cannot be considered a simple resolution approving of the Executive conduct; it goes deeper; it strikes at the very foundation of our national peace and prosperity. I fear it will tear up the blessed priv-

ileges with which we are favored, and, on slight and trivial grounds, I would by no means put them at hazard.

I have protracted my remarks, Mr. Speaker, on the second position which I laid down, greatly beyond what I had in contemplation when I rose. I hope the House will do me the justice to believe that I speak from a sense of duty, and from no sinister motive. I have nothing to ask from the Government, but protection in my lawful pursuits, for, with great truth, can I declare, that there is no office in the gift of the Administration which I covet or desire. I feel myself to be an independent American, and as such I hope to continue.

Hoping that gentlemen will view this subject in all its bearings before they give their final vote upon the resolution; that they will examine its aspect and consequences, as well towards Great Britain, as in relation to our own country; that they will look well to our means either to meet or expel an enemy, if war should ensue, I shall close my remarks. Every man has a solemn duty to perform to his country and to his God, and to them alone is he responsible.

Having spread this subject before this honorable House in the best manner I was able, I have only to thank them for their attention, and to express my hope that they will consent to its indefinite postponement.

Mr. W. ALSTON said that if the subject of the present resolution had been discussed by all the gentlemen who had spoken on it as it had by the gentleman last up (Mr. TALLMADGE) he should not have risen to take any part in the debate; for that gentleman had declared that in the event of war growing out of the transaction, he would rally around the standard of his own Government. If all had spoken the same language, said Mr. A., I should have been satisfied to remain silent—but, to my mortification, how has the resolution been discussed? Precisely as if the British Minister were arraigned at the bar of the House for offensive language; and if that were the case, his conduct could not be defended with more ardor and zeal by his counsel, than it has been already by gentlemen on the floor. Every offensive word he has uttered has been smoothed down, softened, and attempted to be explained away, and every word the Secretary of State has written, tortured into an offence; they can find throughout Secretary Smith's whole correspondence, cause for offence to the British Minister, Mr. Jackson, but can find no expression in Mr. Jackson's calculations to give the least offence; in fact they can find an apology for every act of the British Minister or his Government, and find fault with and criminate every act of their own. Can gentlemen ask us to put by a resolution, the subject of discussion, which is treated in this way? What would result from our doing so? Would not, I ask, the language in Great Britain be, that the party in the United States favorable to British views and British principles had prevailed? How then, or with what face can we be asked at this stage of the discussion to postpone the consideration of

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

the resolution, after such high ground has been taken in support, not in the defence of the liberties of their own country, but in defence of British insolence and British outrage? Sir, it is as well known in Great Britain as it is here that there are two great political parties here, not only of *ins* and *outs* merely, but contending for principle; and when any measure proposed is known to have been advocated by one party and opposed by the other, and is put by, what must be the opinion of that nation to whom it relates? Why, that the party which favors her views is triumphant in America; that Mr. Jackson may remain, and, notwithstanding offence has been taken at his language, that he must be heard. If I did not in my soul view it in this light, I should attach no importance to the resolution. If it had never been presented to my view, I certainly never should have presented it for consideration. If gentlemen are serious in their desire to postpone it, why did they not attempt it before they justified Jackson in his language, and the British Ministry in disavowing the arrangement? I should then have thought them justified in their conduct; and if the motion had been made, and gentlemen had confined their observations to the question of postponement, it might have prevailed.

A great deal has been said on the subject of approbatory resolutions, and it has been said that if we have a right to approve, we have also a right to disapprove. I will ask you, sir, if this principle has not been practised on ever since the commencement of the Government—if one side has not always taken the liberty of offering resolutions approving acts of the Executive, and if the other side has not opposed them? It amounts to this: when a party in power approves an act, they will say, well done, notwithstanding the disapprobation of those in opposition. One gentleman (Mr. PORTER) has told us that a former President was entirely spoiled by these approbatory addresses and resolutions. I ask gentlemen to turn to the volumes of addresses presented to him, and see whether there be any analogy between those addresses and this resolution. But, sir, it was not the addresses which broke Mr. Adams down, but the party which surrounded him. That party is now out. Does the gentleman from Rhode Island believe that if the party now out were in, and were to pursue the same steps, that they would not be hurled from their seats? It was their alien and sedition laws; their system of persecution and taxation; their system of creating offices with large salaries, with no duties to perform; they carried taxes to the door of every man almost in the nation, and many times the salary of the officer was equal to the revenue to be collected in the district of country assigned to him; this was the system, and not their approbatory resolutions, which drove the party out of power. I appeal to that honorable gentleman, to say what was the aspect of affairs when that party went out of power and the present party came in—was not every description of property we possessed taxed; and was not the whole of the money collected annually ex-

pendent, and in addition a constant resort to loans? Was not the national debt every year increasing? And what has been effected since the present party came into power? Have they not abolished the whole system of internal taxation? Have they not put down a whole train of useless and unnecessary officers? And, notwithstanding, has not the public debt been extinguished in a ratio far beyond the expectation or anticipation of the most ardent admirer of republican principles? I believe the gentleman may speak of *ins* and *outs* as long as he has a voice, but never find a majority of the American people who will say, give us more of those *ins*.

The gentleman also says that England will never make peace with you; that she has reaped and is reaping the benefits of our embargo and non-intercourse acts, and as long as such acts exist she does not want peace. Another gentleman (Mr. EMORY) says, Great Britain is desirous of making peace with us, and that now is the proper time to meet her. What must I infer from this, sir? That the gentleman must be willing to make peace on her terms, as prescribed in the printed instructions containing the three conditions. I cannot believe that the American people can ever be willing to make peace upon the terms which the gentleman himself proposes, for no other inference can be drawn from his argument. A great deal has been said with respect to the powers of Mr. Erskine; that the arrangement entered into between him and the Secretary of State was made without a full power on the part of Mr. Erskine. The gentleman from Connecticut has certainly made a very ingenious speech on the subject, and if his position be correct, his argument is unanswerable. But let us look at what was done, and see if it be that which the gentleman calls it. Was it a treaty? Or was it a convention? It was neither. The British Government had in force certain Orders of Council which were offensive to us. The American Government had a system to meet them. Mr. Erskine, the accredited Minister as well as the Minister Extraordinary of the British Government, makes proposition that if we would do away our restrictive system, he would pledge his Government to remove its Orders in Council. Suppose that this had been in direct violation of his instructions—what was your Government to say to him? Well might gentlemen have said we did not want to make peace with Great Britain, if the President had dared to refuse the offer. Let him but have refused it, and what a triumph gentlemen would have had! We always told you, they would have said to the people, that the Administration did not want peace with Great Britain. Here were terms proposed, and, notwithstanding they were made by an accredited Minister with full powers, the sole representative of his Government at our Capital, still they were refused. What in such a case would have been our situation, sir? Should we have stood upon as high ground, if we had refused to meet him, as we do even now that his act is disavowed? Certainly not. If gentlemen will give themselves

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

the trouble to examine the correspondence before them, particularly a letter from Mr. Pinkney to the Secretary of State, they will find that Mr. Canning admits that two out of the three propositions could not properly find their way into an arrangement. Why does he disavow the arrangement at all if he admits that those conditions were not material? Was it because offensive words were made use of? Were the terms in which the arrangement respecting the Orders in Council was couched liable to the same objection as we have been told that part relating to the Chesapeake was? The terms of the latter were not so offensive as they have been construed. True, we had nothing to do with the King's honor, which is in his own keeping; but we had a right to our opinion, and certainly had a right to express our opinion with respect to what we thought he ought to have done. If he preferred not to punish the offender in the case of the Chesapeake, it was a proof that he thought we were wrong in asking it; and it was right to express our opinion as it was expressed.

I ask the gentleman from Connecticut (Mr. TALLMADGE) to examine again the correspondence respecting the arrangement of the affair of the attack upon the Chesapeake, and see whether it may not be considered rather as an acknowledgment on our part, that we have accepted of terms short of what we thought we had a right to expect, and that the mere expressions on our part that it belonged to the King's honor, or that it would more comport with his honor (I do not recollect the express words made use of, neither will I follow the example set me by others in reading documents) to punish the offending officer, was not really so offensive as the gentleman seems to imagine, and that his honor was not compromised by our making use of those expressions. It is therefore to my mind clear, that the disavowal of the arrangement made with Mr. Erskine, was not on account of any one of the reasons assigned, either by the British Minister or by his friends in this debate; it was for some other cause, which neither he or they dare to mention. We are indebted to opposition in this country for the disavowal; we are indebted to the authors of such speeches as we have heard in this debate; we are indebted to members upon this floor, who can criminate the officers of their own Government for making use of words, which same words they cannot only justify when made use of by the British Minister, but eulogize his forbearance in not taking offence at them. Yes, sir, these, and circumstances like these, are we to look to for the disavowal.

It is painful to me, sir, to examine the way in which this subject has been handled. Through the whole relation of our difficulties with England, gentlemen have taken upon themselves to hunt up every act of their Government, which could give offence to Great Britain, but have not pointed out one single aggression which Great Britain has committed on us. Is this like Americans? Can they do nothing but heap eulogium on the British Government, and, when we come

in collision with it, to justify it instead of their own? If I could see gentlemen taking up the correspondence and justifying one single act of their Government, I should feel much better satisfied with their conduct than I can when they examine every measure, and cannot for their souls find a single act of their own Government but what is wrong.

A gentleman from New York (Mr. EMOTT) thinks very differently from his friend from Rhode Island. He thinks this a very favorable time indeed to negotiate with Great Britain; that she does not stand on that high ground that she did a few years ago. I would ask that gentleman, taking him up on his own ground, if this be not the very time of all others that we should not submit to the degrading conditions prescribed? Can gentlemen collect a single proposition made by Great Britain which would be accepted. Take the correspondence from beginning to end—and I ask whether Mr. Jackson does not confine himself to conditions which have been once spurned, and which Canning himself does not think material? If we had negotiated with Jackson for twelve months, I take it for granted we never should have got from him terms more palatable than those contained in the three conditions in the printed instructions to Mr. Erskine. I cannot find a single favorable sentence throughout his whole correspondence. For myself, I should have been as perfectly willing that the Government should have broken off with him on his first letter as on his last, for in that he said enough to justify our Government in refusing to have anything to say to him. What, sir! After his coming here subsequently to the disavowal of an act which none will say gave us more than we are fully entitled to, and having nothing to propose but the same three conditions, was there any necessity to negotiate under an expectation that anything favorable to this nation would be obtained from it? Surely not.

Some gentlemen, particularly a gentleman from Connecticut, (Mr. PIERCE,) have wanted us to wait till we saw how Great Britain would take this thing. I venture to say, sir, that if we lie on our oars and do nothing, and the speeches of some of the gentlemen go there, we shall not derive any good from it. She will conclude that we are a divided people, and that the party in America which is most disposed to be friendly to her usurpations has prevailed, and that whatever terms she proposes will be accepted. Under this view of the case, why should we wait to hear from her?

If the British Government had a right to disavow its act, we certainly had the same right to reject the conditions offered to us. She might have disavowed the act without sending a Minister here clothed with power expressly to insult us, and without alleging for it reasons which every man must believe were not true; for, after looking at what Canning has said, no man can believe that the arrangement was rejected because the instructions were not complied with. She is indebted to the honorable gentleman from Connecticut, (Mr. DANA,) and not to the sagacity of

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

her Ministers, for another ground for the disavowal; she has not dared to put it on the ground of a want of full powers.

The gentleman from Connecticut last up (Mr. TALLMADGE) is adverse to this resolution, because he thinks it may tend to widen the breach between the two Governments. I think myself the breach is already as wide as it can be. If war grows out of this resolution, I hope the American nation is ready to meet it. If Great Britain thinks proper to declare war upon us, let her come. I am proud that the gentleman would then be with us, and wish all were like him in that respect. It is time certainly that we were done with half-way measures, as gentlemen call them. Let us take a stand, and if any nation takes offence at it and makes war upon us, I hope we shall defend ourselves. But I am not for waiting till we are further prepared before we do resent their conduct. I am not disposed to lay out a cent more in fortifications, armies, navies, or men, before we make at least this stand. I do not believe the enemy is going to come here. If they declare war upon us, let us then prepare for them. Thus we acted when our revolution was achieved. I think upon every view of the subject, that it is proper to adopt this resolution. It is certainly a very different thing from an address of approbation. Whenever a subject is presented to my view, for or against which I must vote, I will view it in all its parts, and consider the consequences which would result from passing or rejecting it. And if it should appear better to adopt it than reject it, I should, as in the present case, certainly vote for it, and of course against the indefinite postponement.

A motion was now made to adjourn, and negatived.

Mr. LIVERMORE said that, before the question was taken, he begged leave to offer a few observations in favor of the motion he had the honor of making for an indefinite postponement.

I will not, said Mr. L., go with gentlemen to Copenhagen to inquire the character of Mr. Jackson; neither is it of importance to me to be informed that Mr. King, lately our Minister at the Court of St. James, remonstrated against his appointment as Minister to our country; although, if this were a proper subject of inquiry, the high opinion I have of the correct conduct and intelligence of that gentleman would be sufficient evidence to me of his unsuitableness for the mission. But his character is not the subject of the resolution; it is entirely foreign to the question, and ought not to have been introduced. It is sufficient for me to know that Mr. Jackson was appointed by his Government Envoy and Minister Plenipotentiary to ours, and had been received by the President, and accepted as such, and that the communication with him had been broken off. It is not for me to say that the President has acted wrong in receiving an improper character, any more than I should be authorized to say he has been guilty of an unaccountable assumption of power in refusing any further communication with him. It would be presumption in me to

say so, because the Constitution has delegated to the President the exclusive power to act in these particulars. For the due exercise of this power he is alone accountable to the people, and to them alone he is answerable for the whole of his official conduct. The proper inquiry, then, in relation to Mr. Jackson, is, whether he was a person sent to this country clothed with the privileges of a public Minister—that he had been accredited by the Administration in that capacity? A public Minister had for some time resided in the United States, entitled to all the privileges and immunities known to the laws of nations. He being recalled, Mr. Jackson had been appointed to succeed him, and had been duly accredited. These privileges and immunities, of course, devolved upon him. He was, therefore, entitled to them. Gentlemen thought proper to make many observations respecting the individual character of Mr. Jackson, but I shall not at this time follow their example. Unlike those gentlemen who have taken such a course, I will lay aside as irrelevant everything concerning the British Envoy antecedent to his mission to the United States, and will only consider his character as it appeared in the capacity of a public Minister. Perhaps gentlemen may think it unnecessary to make these preliminary observations, but, considering the course the discussion has taken, and not knowing how long it may continue, and the invectives which have been thrown out, I deem it of some importance to state the question thus: Mr. Jackson was the Minister of an independent nation—a nation with whom we are at peace—entitled to no other respect but such as all other nations are entitled to with whom we are at peace. To use the language of the Father of his Country, “we hold them all, in war, enemies; in peace, friends.” He is, therefore, entitled, by the laws of nations acknowledged by the whole civilized world, to protection, and his character is as much entitled to protection from outrage as his person. In the language of a very elegant writer upon the law of nations, “whosoever affronts or injures a public Minister commits a crime more deserving a severe punishment, as, thereby, the Sovereign and his country might be brought into great difficulties and trouble. The necessity and right of embassies being established, the perfect security, the inviolability of their Ambassadors and Ministers is a certain consequence of it; for, if their persons be not defended from violence of every kind, the right of embassies become precarious, and the success uncertain. Whoever offers any violence to an Ambassador, or any other public Minister, not only injures the Sovereign whom this Minister represents, but he also hurts the common safety and well-being of nations—he becomes guilty of an enormous crime towards the whole world.”

This same writer says: “When the commission of an Ambassador is at an end; when he has terminated the affairs which brought him; when he is recalled or dismissed, his functions cease, but his privileges and rights do not expire at the same time. He retains them till he re-

H. of R.

Conduct of the British Minister.

JANUARY, 1810.

'turns to his principal, to whom he is to make a report of his embassy. His safety, his independence and inviolability, are not less necessary to the success of his embassy in his return than of his going.'

I could wish that, in this discussion, we should adhere to the principles laid down by this author. I regret that I have been under the necessity of advertg to this, for it is possible that individuals, by improper treatment of an Ambassador, may produce that state of things which can only terminate in war. If he should be insulted and calumniated, who is to revenge his insults but his Sovereign, who himself is insulted in the person of his representative? Will the Sovereign see his servant treated in this way, without feeling himself bound to defend him? I wish to touch lightly upon this subject, but it certainly is of importance, and deserving of consideration. However, as it is not the subject of investigation to which our attention is principally confined, I shall pass it over, in hopes no further observations will be necessary.

The question before the House at this time is a motion for an indefinite postponement of the resolution. I do not offer this motion from any motive or desire to procrastinate a decision upon this subject. If I had not conceived it to be of the utmost importance to our country that the controversy should be put to rest, I should not have made the motion. The gentleman last up, (Mr. ALSTON,) has intimated that if the motion had been made at an earlier stage of the business, he should have received it in a different light; intimating, I suppose, that he, and other gentlemen, might have been inclined to vote for it. This being the case, I only regret my not having made it earlier. I should have been very desirous that the question should have been discussed and decided upon, and the inexpediency of passing such resolutions with regard to their intrinsic merits determined. If a wider field has been taken in the discussion, sir, it is not my fault; and, if I conceive it unnecessary to answer the arguments of gentlemen, I hope I shall have the indulgence of the House, and in pursuing the course they have taken, I conceive I am entitled to equal privileges with them, even at this late hour, especially when the best interests of the people are jeopardized.

In the first place, let us inquire for what purpose has this resolution been introduced? Upon what grounds was it brought forward? I really apprehend, when this subject is fairly examined, there will not be found the least necessity for this resolution. The President, through his agent, has conceived himself to be insulted. The language of the British Minister, it seems, is not so decorous as he thinks it ought to be. It is said an insinuation has been made, detracting from the honor of the Executive, and consequently of the Government, and the Minister has been informed that no further communication can be received from him. To our Minister in London, representation has been made by our Executive of these facts, and a recall of the Minister is re-

quested. At the same time, assurances are made of the friendly disposition of our Government towards Great Britain, and an earnest desire of cultivating harmony between the two Governments. Sir, the President had a Constitutional right to do as he has done, and we have not the authority to censure him; and even supposing the case to have been doubtful, the President had a right to exercise his own opinion, and if justified to himself, it only remains for the people to consider whether it was wisely, correctly, or honestly done. It is not for us to decide. The Constitution has not submitted this affair to us, and we, having no cognizance of it, neither should condemn nor applaud. He is alone to justify himself to the people, for his official conduct, who have elected him to this important office.

There is little reason for apprehension that this transaction, of itself, must necessarily result in war. It will delay the negotiation, which may prove very disastrous to the country. But war is not the necessary consequence of the *dismissal*, as it has been improperly called, for it is not a dismissal of the British Minister. But, although such an act cannot, of itself, be a just cause of war, yet the manner of doing it might produce that calamitous event; for every independent Government possesses the right to request the recall of a Minister who should not prove agreeable to it, without affording a cause of complaint, or giving umbrage to the Government from whence he is sent. For instance, if the demand or recall should be accompanied with a menace or any indignity offered to the Government, war must be the inevitable consequence. Do gentlemen think that Great Britain is so depressed as to submit to a menace? Most certainly they do not. Is it not to be apprehended that war, in that case, would as naturally follow as the thunder does the lightning? And I view the resolution too much in the light of a message—and this is one cause, among others, why I wish a postponement. Suppose the President had signified that if his demand was not complied with, war would be declared, or letters of marque and reprisal would be issued—let gentlemen consider what would have been the consequence, and what would be the present situation. Congress have the power vested in them of making war and of issuing letters of marque and reprisal, and possess all sovereign power; the President possesses but Executive authority.

These resolutions are to be an act of Congress, passed by all the branches. In what light they will be received by the British Government I cannot divine, but certainly not very favorably.

These resolutions ought to be postponed indefinitely on another account. And here, too, the cause assigned for the introduction of them altogether fails. It might be going too far to say they were introduced from a lack of wisdom, but certainly, to say the least of them, they were very indiscreetly brought forward. Instead of their being, as they are represented to be, intended to produce union among the different parties, they will have quite a contrary effect. Any man will

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

see at first glance that they were particularly calculated to light the torch of political discord among the people. They were a perfect Pandora's box.

If, as gentlemen seem to declare, the resolutions were to be considered as the test of hostility or friendship to the Government—if opposition to them was to be the criterion of opposition to the Administration—in that ungrateful aspect, they were better calculated to divide than unite the House and the people into one party. They were exactly such a measure as was calculated to create division and dissension throughout this country, without producing one beneficial effect. But, say gentlemen, it is necessary to impress upon foreign nations a belief that we are not a divided people, and that Congress will stand by the President, and that the people will support their Government should any hostile steps be taken with regard to the United States. Why would they excite a doubt of our disposition to support the President against any foreign Power that should choose to attack us? And why would the House be willing to tell them that it believed there were some people to be found, who, in such an event, would not stand by the Government? This would be the effect of these resolutions; at least, they would be so interpreted by foreign nations. I hope no man would be willing to afford evidence of the fact. There could be no necessity for asking the question, "Will you stand by your Government if the country should be attacked?" No doubt ought to be entertained upon the subject. Patriotism ought to be presumed, not rendered doubtful by impertinent inquiries. In this point of view this resolution was unnecessary; was worse than useless. All such abstract-like questions have a natural tendency to show division and weakness in a country or a nation, and discover very little wisdom or policy in the authors.

There is another reason, still stronger, which my duty requires me to take into view in opposing the adoption of the resolution, and I regret that I am compelled to enter into the consideration of it. The propriety of adopting the motion will appear very evident from the examination. It seems to have been the intention of the drawer of the resolutions to induce a belief that the material facts which should support them were to be taken for granted; that they were things so plain and self-evident as not to admit of denial or merit investigation. The resolution asserts that "the expressions contained in the official letter of Francis J. Jackson, Minister Plenipotentiary of His Britannic Majesty near the United States, dated on the 23d day of October, 1809, and addressed to Mr. Smith, Secretary of State, conveying the idea that the Executive Government of the United States had acknowledged that the arrangement lately made by Mr. Erskine, his predecessor, in behalf of his Government to the United States, was entered into without competent powers on the part of Mr. Erskine, were highly indecorous and insolent; that the repetition of the same opinion in his official letter, dated

the 4th of November, 1809, was still more affronting, &c., in consequence of these outrages and premeditated insults, the Executive Government has," &c.

Thus absolutely taking it for granted that there was such an offensive idea conveyed in the letter of the 23d, and that the insinuation had been repeated in his official letter of the 4th of November. But, before the resolution supported the fact, it ought to appear manifest from the letters that there had been this insinuation and a repetition of insinuations. And was there no room for doubt and difference of opinion? For my own part, I have read over and over again, and have carefully attended to the reading of the correspondence, and the comments of gentlemen, and with all the attention I am capable of giving the subject, I have not been able to find the offensive idea alluded to in the resolution was ever conveyed, and therefore certainly not repeated in either of Mr. Jackson's letters to Mr. Smith. Now that I am called upon to give my assent to such a resolution, and perhaps ultimately to vote upon its merits, and with a full view of all the consequences, I cannot consent to let the occasion pass without stating my objections to the resolution on this account; I cannot agree or concede that to be fact which I do not believe to be such. No man can say he is at liberty to assert that for truth which he knows or believes to be false, let the consequences be what they may. All other obligations are inferior to those of justice and eternal truth, and whoever means to be considered as a just man must adhere to this maxim. But gentlemen have said, will you not stand by your own Government? Will you show to foreign Powers that you are disunited? Will you convince Great Britain that you are an undivided people? These are no arguments to prevail with me solemnly to record an untruth; and if these consequences follow, the fault is not mine in producing them, but the greater is the reason for postponement.

I will now consider the offensive parts of the letters which have been so much commented upon, but I will not tire the House with reading what has been so often read. I will state my own analysis of what I conceive to have been the writer's meaning when stripped of all diplomatic verbiage. One gentleman asserts that the insult is to be found in the third letter, while other honorable gentlemen assert that the first letter, viz: of October 11, was sufficiently insulting to have justified the President in putting an end to all communication with the British Minister. I will attend now to the first letter, or what is said to be the offensive part, and if gentlemen will take the trouble of comparing the letter with my analysis they will find my statement correct. This letter is not mentioned in the resolution. This is the true meaning and signification of the letter: "You have made no complaint of the act of disavowal, and I have seen with pleasure your forbearance and candor, which I doubt not will continue, as you must think it unreasonable to complain of the disavowal of an act done by a Minister contra to his instructions or the authority given him."

H. of R.

Conduct of the British Minister.

JANUARY, 1810.

To me it is impossible to give any other construction to this sentence to comport with truth than what I have given; and it has been well observed, that it is a rule of municipal law, as well as of reason and common sense, that words spoken or written are to be taken in the milder sense. If, in the common occurrences of life, it is considered a mark of weakness for a man to suppose himself insulted when under no necessity of thinking so, how much stronger does it apply to more solemn instructions? Mr. Jackson proceeds:

"It was not known when I left England whether Mr. Erskine had shown you the whole of his instructions; it appears he had not, but he states he showed you the three conditions which, according to information received from this country, were thought would be acceptable. Mr. Erskine reports your observations, and the reason which induced you to suppose others might be substituted: and the conclusion might have been that those substituted in the arrangement were an equivalent, (you both might think them an equivalent;) and the act of substitution shows the original conditions (that is, the three conditions) were made known to you, and of course to the President. But the difference between the original (the three conditions) and those agreed upon is obvious; therefore, His Majesty had the right to disown the act, being done by his Minister contrary to the authority given him. You have supposed that Mr. Erskine had two sets of instructions, and upon one not shown rested his justification. I declare to you that the despatch from Mr. Canning to Mr. Erskine, which was read by Mr. Canning to Mr. Pinkney, in London, and is the basis of the correspondence with Mr. Erskine, is the only despatch by which the conditions were prescribed for the arrangement to be made."

Mr. Jackson's argument is no more than this: that the conclusion between Mr. Smith and Mr. Erskine was, that both thought the conditions substituted (adopted) were equivalent to the original; but by comparing them the difference would be apparent; therefore, His Majesty had a right to disavow the arrangement made.

Mr. Smith, in his letter of the 19th of October, says: "Certain it is your predecessor did not present for my consideration the three conditions," &c. "and the more reasonable terms comprised in the arrangement were adopted." And where is the essential difference between "substituted" and "adopted?" And Mr. Jackson, so far from saying or conveying the idea, or insinuating, as the resolution supposes, that Mr. Smith knew that these instructions, or despatch, or conditions, were the only instructions, despatch, or conditions, says directly the contrary. For he says: "You have supposed Mr. Erskine had two sets of instructions, and upon one not shown rested his justification; but I declare to you that the one shown, 'was the only,' &c. One gentleman has said that the act of the British Minister was not disavowed on account of his want of power, but in consequence of his having violated his instructions, which gave him authority. I have always supposed that power and authority were synonymous in relation to such affairs. But the language of the British Minister here is too plain to be misunderstood, and it is attempting to put a forced

construction upon his language, contrary to reason and common sense, to make him say, "you know this was the only one," when he expressly says, "you supposed there were two, but I tell you there was but one." It is true, and I can well imagine it, that my powers of discernment may not be so quick or so accurate as those of other gentlemen, and that may be the reason why I have not been able to discover what other gentlemen so distinctly perceive. One honorable gentleman has said, "there are none so blind as those who will not see." This is rather severe. I will merely answer the gentleman in a couplet from a poet of approved authority, and such I think the gentleman will not deny:

"That optics nice it takes, I ween,
To see what is not to be seen."

I confess I labor under this difficulty.

I will now give the meaning of the offensive part of the celebrated letter of the 23d of October. After assuring Mr. Smith that Mr. Erskine had no graduated instructions, he says: "You are already acquainted with the instruction given, and I have also informed you it was the only one by which the conditions were prescribed. And he (Mr. Erskine) states that the terms accepted by him, which are different from those conditions, were substituted by you in lieu of those proposed by him." Or, in other words: "You are acquainted with the instructions which were given, and I have informed you they were the only instructions, (not that you know the fact from any other source,) and Mr. Erskine states, that in lieu of those proposed by him, you substituted those actually received, which are different from those proposed by him."

There can be no rational construction given to this letter other than this; because, to make Mr. Jackson insinuate that Mr. Smith knew the conditions or instructions were the only ones, when he says, "I have had the honor of informing you that it was the only one upon which the conditions on which he was to conclude were prescribed," (and these are the exact words,) is to make him insinuate that which is contrary to his expressed words. And his observations upon Mr. Smith's supposition, that there were graduated conditions, go upon the same ground: that he (Mr. Jackson) informed him, Mr. Erskine had no graduated instructions; not that Mr. Smith knew the fact previous to the information he himself had given him. And it appears that the conditions are different from the arrangement made. Surely there could be no indecorum in insisting on this fact, and that in his apprehension it was sufficient justification for His Majesty to disavow the authority of his Minister to make such an arrangement. It is also to be considered that Mr. Jackson had been thrown into this correspondence much against his inclination. He expressed his dissatisfaction at having been deprived of the advantage of a verbal communication, in which any misunderstanding might have been explained with mutual candor. But of all these opportunities he had been deprived, and of necessity driven

JANUARY, 1810.

Conduct of the British Minister.

H. of R.

into a correspondence which has proved so un-conciliatory.

Mr. Jackson is also charged in the resolution with repeating his insulting insinuations in his letter of the 4th of November. Let us now see whether this famous resolution from the Senate is true in this particular. The offensive expressions are said to be contained in page 70 of the printed documents. I will give the meaning, as I have before shown in respect to the other letters. "When there is no freedom of communication between Ministers there can be little useful intercourse. One at least of your epithets (*irrelevant* and *improper* were the epithets) abridge this freedom. You may show by argument irrelevancy; but my Sovereign alone must judge of the propriety or impropriety of my allusions, provided I do not deviate from the respect due to your Government."

Mr. Smith had used these epithets, and how is it possible any other reply could have been given? Could it be done in private correspondence? Certainly it could not. Prove (if you please) irrelevancy by argument, but to charge me with impropriety is for my Sovereign alone, provided I show no disrespect to your Government. And how can gentlemen say that this is not correct? He admits that he is not to be disrespectful to our Government, and certainly thereby implies his intention not to be so; but in other respects asserts his independence. And can gentlemen of candor say, after the charge made against him by Mr. Smith, there was any impropriety in saying it? or, of repelling a charge made against him not in its nature the most pleasant?

Mr. Jackson proceeds: "I have avoided drawing conclusions which do not follow the premises advanced by me." Now, what were the premises advanced by him, and what were the conclusions? These were the premises: "You are sensible the conditions shown to you are different from the arrangement made, and I have assured you that these were the only conditions upon which Mr. Erskine was authorized to make an arrangement." The conclusion was this: that the American Government having a knowledge of these facts, would not be surprised that His Majesty had disavowed the arrangement. And, says Mr. Jackson, "far be it from me (this is his meaning) to utter an insinuation not supported by fact; but facts such as I know I must adhere to whenever the good faith of His Majesty's Government is called in question." Much has been said upon this part of the correspondence, and gentlemen have imagined they have perceived a reiteration of a previous insult; but except there had been a previous insult, there could be no reiteration of such, and except gentlemen are determined to find an insult in the correspondence, none such could appear.

Much stress has been laid upon these words, "least of all should I think of uttering an insinuation where I was unable to substantiate a fact." This expression was merely in answer to a charge of Mr. Smith against him which he thought unmerited, for he does not appear to have made

any insinuation, and meant to confine himself to a proper respect for our Government, as the language of this letter purports. And in this way has Mr. Jackson explained himself to our Government through Mr. Oakley. These are his words: "In stating these facts, and in adhering to them, as his duty imperiously enjoined him to do, Mr. Jackson could not imagine that offence would be taken at it by the American Government, as most certainly none could be intended on his part." The facts he mentions as being stated (which I have fully descanted upon) were, first, "that the three conditions forming the substance of Mr. Erskine's original instruction, were submitted to him (Mr. Smith) by that gentleman. The other, viz: that that instruction is the only one in which the conditions were prescribed to Mr. Erskine &c., is known to Mr. Jackson by the instructions which he has himself received. Mr. Jackson had no idea, as he could have none, of making any insinuation or stating any other fact; and, as he had no intention of giving offence, was undoubtedly astonished that offence was taken. And why this explanation was not received is not for me to say. It looks a little too much as if it was necessary to find an insult at all events.

I have thus endeavored to inquire into the truth of the propositions contained in the resolution, and to show the reasons why I wish an indefinite postponement. Other considerations of great importance have been brought into view before the House by those who support the resolution, and much learning has been displayed in this discussion. I do not say, however, that much good is likely to result from discussing the resolution in this way. The arrangement which had taken place in consequence of the act of March last, the subsequent disavowal of the authority to make the arrangement, the attack on the frigate *Chesapeake*, and a variety of other grievances, had all been descanted and enlarged upon. In relation to these subjects I will offer a few observations, and first of all will state as briefly as possible, in the way of narration, the circumstances which led to the arrangement in question.

At the close of last winter, it was found that commerce was totally annihilated by the pressure of the celebrated embargo laws—acts which were at that time found totally insufficient for the purpose for which they were intended. It was discovered by the majority to be, what they had been told long before, entirely useless as a measure of coercion against foreign nations and ruinous to our citizens. At length they determined to change this for some other measure of coercion; a substitute was wanted. Show us a substitute, was they; and the non-intercourse was resolved upon. And the minority, although they anxiously strive to get rid of the coercive measure altogether, could not effect it, but were willing to lend their aid and afford all the assistance in their power to free the people from as much of the system as possible. It was then determined to repeal the embargo and pass the non-intercourse act, which was accordingly done. This was the

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

thing that would bring Great Britain to our feet; it would starve the nation; it was to deprive them of getting their necessary supplies of materials for their manufactures, and would deprive manufacturers of the means of subsistence, or the means of gaining a livelihood, and would excite insurrection and rebellion among the people, and compel the Government to submit. But we are now told that this same non-intercourse act is no better than a dead letter. It is known to have no coercive effect whatever; the authority of Government is wholly insufficient to enforce it; whether the plan was a wise one or not, must appear by the sequel. It is now known and acknowledged to be in effect what it was foretold it would be by those who opposed its passage. They then declared it would not operate against Great Britain so as to compel her to do anything she did not choose to do, neither would it operate with severity against any nation except our own people; that these restrictions upon commerce would be injurious to ourselves alone. It will be recollected how long this act was to be continued in force; that it was to expire at the end of the next session of Congress, which was the last Spring session; and in case France or Great Britain should resolve to modify their edicts, so that they should cease to violate the commerce of the United States, the President was authorized to declare it by proclamation, after which the trade suspended by that act and the embargo acts was to be renewed with the nation so doing. By this act, if a certain occurrence should take place, the President was to issue his proclamation declaratory of the fact, after which the trade was to be resumed. This was the law.

I could wish, Mr. Speaker, as the hour is late, the House would consent to adjourn; but, otherwise, I request I may have a patient hearing. The business we are discussing is of importance, and the objection to the motion for a postponement may be easily answered. At all events, I have a right to offer my sentiments freely upon this occasion; and it is nothing more than reasonable that I should have an opportunity by daylight for the purpose. But, however, I will proceed.

The trade was to be renewed upon a certain event. Did that event happen? The fact is denied by those who support this resolution, and it is said that the President illegally issued his proclamation of the 19th of April last, because the event had not happened at that time, and that the non-intercourse is supposed to be still in force as against Great Britain. Let us consider the point. The act enacts that when Great Britain shall so revoke or modify her edicts, that they shall cease to violate our neutral commerce, that then the President shall issue his proclamation. Here, of necessity, a discretionary power, or at least a power of judging without appeal, was vested in the President. What was meant by the word edict? The word is not technical, either in this country, in England, or in France. The President must therefore decide, and he did decide, that as far as it related to Great Britain, it was the Orders in Council of November, 1807, and

of January following; and there can be no doubt that the idea was correct; and the Berlin, Milan, and Bayonne decrees, were the edicts of France intended by the curious act. But were they revoked or modified? Here the same power of judging was given, and the President, by his proclamation, declared, that on the 10th day of June next ensuing, the Orders in Council would have been withdrawn. The President here put a pretty liberal construction upon the act, but I will not say an improper construction, for the law of necessity made him the sole judge. But having exercised his judgment, and issued his proclamation, his power ceased, or was completed, and the law operated to renew trade. At the time of issuing his proclamation, the Orders in Council had been withdrawn, and a blockade of France and Holland had been substituted; but this was not known, and could not have been the cause of the proclamation. But the true cause and foundation was this: The British Minister, Mr. Erskine, had stated to our Government, that in consequence of the equality produced by the non-intercourse act between the two belligerents, he was empowered to offer satisfaction and reparation for the affair of the Chesapeake, and also informed the Government that His Majesty was willing to withdraw his Orders in Council, in the persuasion that the President would issue a proclamation for the renewal of intercourse with Great Britain. The terms were accepted, and Mr. Erskine, by letter, assures the President that he was authorized to declare that His Majesty's Orders in Council of November and January will have been withdrawn on the 10th day of June; and, in consequence of this assurance, the President promises to issue the proclamation, so that the trade should be renewed, and the proclamation was accordingly issued. This was a stipulation or agreement entered into by the American Government with the British Minister. It was an arrangement of something to be done by one, for something which, in consequence of the agreement, was to be done by the other. It was a *quid pro quo*; and the agreement, in fact, was this, that the President stipulated that he would issue his proclamation, which would renew the intercourse, in consideration of the other stipulating, in behalf of his Government, that the Orders in Council should, on the 10th day of June, have been withdrawn. If this were not the case, and it were not a mutual agreement for a mutual purpose, it would seem that either party might withdraw from the agreement or arrangement at pleasure. The arguments attempted to be enforced in the discussion, that although full powers were necessary for the affirmation of a treaty, they were not necessary for making this arrangement, would all vanish if gentlemen considered the subject. This arrangement might be called a pact, compact, or agreement, and being a public engagement, the same rules are applicable as applied to treaties, and no rule can be more certain than this—that an agreement is not binding upon the principal when the proxy has not authority to make it; and a Minister could no more enter into an ar-

JANUARY, 1810.

Conduct of the British Minister.

H. or R.

rangement of this matter, without authority, that would bind the principal or sovereign, than he could make a treaty without authority. There can be no distinction between the cases, either in the laws of nations or nature. And it is not now contended by our Government, that Mr. Erskine had authority, but if they do contend that he had such power, the burden necessarily rests upon them to prove it. But he assured the Government that he was authorized, and they took his word for it. There are different ways whereby an agent could derive power from his principal; by a full power, as it is called, which is a general power. But, in this case, treaties or stipulations entered into are not binding until a subsequent ratification of the principal; but agreements may be made to take effect immediately, provided authority is given for the purpose, and this may be done by special power, or by instructions, or orders, for that purpose; and the usual way is by particular instructions, as to any specific object. In this manner—that is, by instructions—the power or authority of the principal is as much delegated as by a particular power. But, in all cases, the power must be strictly pursued, and the law of nations is in conformity with reason and common sense—that the Minister must not deviate from his instructions or authority.

Books of authority have been introduced to prove that a Minister is under no obligation to show his instructions, as was the case of Queen Elizabeth's Ambassador, sent to Scotland with orders to have the Duke of Lennox removed from about the person of the young King, James. There can be no doubt of the propriety of this principle, but then a Government is under no obligation to enter into any agreement with the Minister in behalf of his Government, without he produces his authority, whether by powers, or instructions, or letters; and the Government cannot, with safety, treat with him until he produces his authority; and, certainly, the Government is under no obligation to take his word for it, or must do it at their peril. The gentleman who last spoke (Mr. ALSTON) has urged, as an objection to the demand of the Minister's instructions, that it might be the means of breaking off an important negotiation. The gentleman added, that if the President had refused to treat with Mr. Erskine on this ground, (that is, not producing authority,) there would have been a great clamor and outcry against him by the opposers of the resolution, and those who accorded with them in sentiment. This was sporting with the feelings of those who did not happen to think with the majority, and the remark has been made about the obstinately blind, who would not see; but a man must be blind, indeed, not to perceive the fallacy of this argument. A man must be stupid, indeed, worse than blind, to blame the President for not entering into an arrangement of this nature with a British Minister who would not produce his authority.

But the books produced most certainly show what the law of nations is upon the subject, and it has been considered and decided upon by our

own Government. I will here make an observation, which I wish gentlemen seriously to consider. When gentlemen who support the resolution go further than the minority, and say that our Cabinet did not understand this subject, in what light would they wish to hold them up to view? That they do not understand the difference between full powers, or particular instructions, and mere letters of credence? For my own part, I should feel more of the *esprit du corps* than acknowledge that our Cabinet were below any statesmen in diplomatic knowledge, or had less of diplomatic skill than Talleyrand himself, or any of the Cabinet of the Great Nation.

The authority of a public Minister is like that of all other agents, derivative; consequently he can possess no more power than is given to him. A letter of credence is an instrument that establishes the grade and character of the Minister, and entitles him to all the privileges and inviolability of a Minister of that grade. He can be received only in the quality given him by his credentials. But it requires a full power even to negotiate and form a treaty which is afterwards to be ratified by the Sovereign, and, much more so, every particular authority, to bind the Sovereign without his subsequent ratification. It requires but the application of a man's reason, and a little common sense, perfectly to comprehend this; and a gentleman would find difficulty in completely justifying Government upon such a principle, viz: in treating with a Minister not having authority. Indeed, it seems heretofore to have been considered the duty of the Government previously to know whether the agent possessed the authority of his principal, and this seems fully proved by the cases which have been cited and read. But I think that gentlemen will not insist upon a contrary doctrine.

But let us pursue the course of events. The President, on the 23d of May last, sent his Message to Congress informing them that the British Government had transmitted to their Legation here provisional instructions not only to offer satisfaction for the attack on the Chesapeake, but to make known His Britannic Majesty's determination to send an Envoy, with powers to conclude a treaty; I wish to emphasize these words, "with power to conclude a treaty;" in the meantime to signify his willingness to withdraw his Orders in Council, in the persuasion that the intercourse would be renewed, &c.

It seems that the President did not entertain an idea that the letter of credence did not give this authority. From the documents at that time submitted to Congress by the President, the manner of the negotiation appears, and the result was the arrangement so much spoken of. And the amount of it as respects the powers of Mr. Erskine appears to be this; that Mr. Erskine (mistaking his authority) assured our Government that he was authorized by His Majesty to make the arrangement, and the President accepted his assurances in lieu of the exhibition of his instructions, except the three conditions, which were deemed inadmissible, and those comprised in the

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

arrangement were adopted. It is not our present purpose to inquire whether this proceeding was or was not correct. It will ever be a subject upon which people will fully descend. We cannot suppose the President would enter into a negotiation of so singular a nature without believing Mr. Erskine to have been authorized. He intended to do all the good he could for his country; he therefore entered into the agreement, knowing that it would relieve the people from the burdens occasioned by the non-intercourse, and believing it would be acceptable to Great Britain. The expectation of the President must have been that the arrangement would have been adhered to, and this I am constrained to approve from weighty considerations, though not such as have been advocated by the gentleman from Mississippi Territory, in discharging the detached militia and laying up the gunboats. The first of these objects was burdensome to the people, without the prospect of public benefit; the other, a bill subject to ridicule, and nothing better. But the President must have believed that the arrangement would have been adhered to, otherwise he could not have entered into it to send forth our whole commerce into the claws of certain destruction, for he must have known they would have fallen a prey to the British cruisers in going to Holland if the Orders in Council were not revoked, and the consequence of such a loss of property to our citizens is impossible for me to describe. But such captures of our vessels and merchandise did not take place, notwithstanding the disavowal, and this affords some proof at least that the disposition of Great Britain was not so hostile to this country as has been so much insisted upon. It is a fact worthy of consideration; and when so much has been said of the hostility of Great Britain towards this country, a view ought to be taken of the whole case. The arrangement concluded was indeed disavowed, but orders were issued to prevent any injury arising to our citizens in consequence of the disavowal, and not a single capture, as I learn, has been made, except one or two vessels lately carried into Halifax and condemned on a misconstruction of the orders of repeal and for blockading the ports of France and Holland. But I doubt not the property will be restored.

I must again express my deep regret at the great impatience of gentlemen, inasmuch as the House will not consent to an adjournment. Indeed, I have no desire to speak out the old year and speak in the new, but I am extremely anxious for an opportunity of freely delivering my sentiments without interruption upon so important a question, and of addressing my arguments to gentlemen capable and willing to give me a patient hearing.

I have been attempting to show the reasons which induced me to believe that the President of the United States, when he entered into the arrangement with Mr. Erskine, did not apprehend it would have been disavowed by the British Government, and (as I have before mentioned) for reasons very different from those assigned by the gentleman from the Mississippi Territory. But

I agree with that gentleman that if the President knowingly exposed our whole commerce to the certain capture of our property, it would almost have occasioned a civil war, or, at least, a war with the nation so capturing our property. And here I would ask that gentleman to consider, if Great Britain had been desirous of a war with this country, whether an occasion could have presented itself more favorable to their wish? Could they ever have a better chance of a full sweep at our commerce, this too, at a moment when they could with so much plausibility have shifted the odium of the transaction from their own Government to that of the United States? And might they not, with some appearance of truth, have said to our citizens, if you have lost your property from not understanding your true situation, you must lay the blame upon your own Government, which, in the face of the positive instructions of our Minister, has concluded an arrangement which has thus subjected the whole of your property to capture? I put the question thus hypothetically for the consideration of gentlemen.

The question would here return, if the instructions of Mr. Erskine did not authorize him to make the arrangement, could his Government be bound to avow it? I am willing to say that it was impolitic in Great Britain to disavow this act of her Minister, but I do not agree to the truth of the charge alleged against her of perfidy in that transaction. This has been my opinion from the beginning, in relation to this part of the subject: that although I believed the Minister of Great Britain was not authorized to make the arrangement, and consequently that the Government was not bound by direct moral obligation to carry it into effect, yet I must still maintain it would have been good policy for her to have ratified the agreement; and no one has felt more disappointed and vexed at her not doing so. It could not be either just or proper to charge a nation or Government with perfidy in not having avowed an act which they had not authorized to be done; and I cannot bring myself to believe that the reiterated charge of deception and bad faith is well founded. Therefore, although I may condemn the policy, I cannot denounce the principle. But, sir, although I wish, with as much sincerity as any man, that this celebrated arrangement had been acquiesced in by Great Britain, and must condemn her policy for not doing so, it by no means follows that I must consent to adopt the resolution before the House. This perhaps closes the door to all further negotiation. What is the vast importance of the act to be done, that we must stretch our consciences and the sacred truth? That we must assert our belief in certain positions which we cannot believe, for the purpose of providing against something which might possibly take place? To this I cannot consent. I am jealous of the resolution on many accounts. I fear it may produce war. I believe it was intended to bring about that event. I would not accuse any gentleman with intentions they did not profess, but such is my information that I do not

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

believe it will be contradicted. If war is wished for and intended, I believe it may be produced by such resolutions. I view these in the nature of a menace. It contains a pledge to stand by the Government in any consequence which may ensue from the dismissal of the British Minister. Why is it necessary for Congress to pledge itself to stand by the Executive in their refusal to receive any further communications from Mr Jackson? Surely, gentlemen did not mean that the walls of the palace were insufficient to resist the attack of a single individual? It could not be supposed necessary to call out the whole force of the nation to surround the President's house to keep out an insolent foreign Minister. No, sir, it must be understood as it is; a menace to his Government if they should take upon themselves the liberty of countenancing the conduct of their Minister. What effect would a thing of this nature produce coming from the Sovereign of one country to that of another? Certainly not the most conciliatory. The British Government understands our Constitution as well as we do ourselves, and that the President is not the sovereign of this country, although he is supreme executive magistrate, but that the sovereign power is vested in Congress. The President is empowered in certain cases to execute the laws, to appoint public Ministers, to receive and accredit Ambassadors, and to make treaties, with the advice and consent of the Senate. Yet the power of making war and peace, the intrinsic principles of sovereignty, being solely vested in Congress, they were now, as the sovereign of the country, about to issue something so exceedingly like a menace, there would be much difficulty in making the discrimination.

This resolution, if passed, must be sent to the President for his approbation or rejection. It would rather be a laughable situation in which he would be placed of being under the necessity of either condemning or praising his own conduct. This at first view appears rather ridiculous, but upon a more minute consideration it would have a more serious aspect. If the President should approve the resolution, and give it his official sanction, it would be a kind of Constitutional declaration of war. The sovereign power of the country would, in effect, say to the British Government: You must submit and consent to recall Mr. Jackson, as the Executive has demanded, or we pledge ourselves to call out the whole power of the nation against you. I ask gentlemen candidly to consider whether there is not some danger, some probability that Great Britain will view it in this light? And I would further ask, does this resolution agree with the spirit of the President's Message to Congress, or with his instructions to our Minister to request the recall of Mr. Jackson. Has he not asserted his willingness to receive communications from the Government of that country through any other functionary, professing at the same time the greatest solicitude for a friendly understanding with the Government? If, then, this idle resolution should throw fresh difficulties (already too numerous) in the way of negotiation, and a

good understanding with that Power, why shall it be persisted in? Why will you proceed to make that worse which is already bad enough?

But many gentlemen who have expressed their disapprobation of the introduction of this resolution, say, as it has been introduced, except we pass it, we shall manifest to foreign nations that we are a divided people. This, sir, is a false conclusion. If the resolution should not be acted on, it would be the same as if it had not been introduced. And here results the benefit of indefinite postponement.

The only course of reasoning upon this subject must lead us to these inquiries: Does the thing comport with truth? for, if it be wrong, and useless in itself, no motives ought to induce us to pass it; no extraneous considerations of this kind ought to find their way into the discussion. Our good sense would direct the proper inquiries to the merits of the resolution itself, and as the truth was found, so ought the discussion to be, without regard to any other motives. Is it so necessary to hold up to foreign nations that we are not a divided people? If this is so important a consideration, the sooner we lay aside the discussing or agitating of this resolution the nigher we must be to effectuating the object.

I do sincerely wish to obtain an indefinite postponement of this ill-devised resolution; and for that purpose I have been so anxious for an adjournment, that I might have an opportunity of fully delivering my sentiments at a time when gentlemen would be candidly disposed to a partial hearing, and I should not be troubled with such frequent interruptions. I entreat gentlemen to consider that this has not been a contest to gain time, and it must be quite immaterial to gentlemen whether the resolution should be passed to-day or to-morrow, or a month hence; but that it should be perfectly understood, with all its bearings and consequences, is all-important for the good of the people.

Many arguments in addition to those offered might be urged for the postponement; but at least I hope gentlemen will give me a patient hearing while I briefly review those already advanced.

I have endeavored to show its tendency to produce war, and that I believe this was originally the intention of those who produced it. Indeed, I have heard this assertion directly made without contradiction. I have also endeavored to show that the resolution was not calculated to produce union among the people, but would have a direct contrary tendency; and that it was an unconstitutional interference with the Executive power by the Legislature, which the people intended should be kept distinct. It goes to establish a principle or precedent, that the two branches of the Legislature may give an extrajudicial opinion upon a case which may afterwards be brought before them in a Constitutional way; for a case may happen in which the Executive might be impeached, for a transaction of this nature; and although the trial is not to be had before the House, yet we are to give a sanc-

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

tion to the unconstitutional principle that the court before whom the trial is to be may prejudice the cause. But in my opinion it is equally improper in us to pledge ourselves in this way. We are the grand inquest of the nation as to subjects of this nature, and by the Constitution it is our duty to inquire into the offence and prosecute before sentence. To me, therefore, there is the utmost impropriety in the course we are now pursuing. I do not undertake to say that in the present case there is any corrupting conduct, which alone is the foundation of impeachment; but I contend for the principle, which is a most important one, and a violation of it leads to the destruction of the Constitution, and consequently of civil liberty, and no man can see the extent of such approbatory resolutions.

I ask gentlemen to consider whether the Executive has not taken pretty extensive latitude in construing the non-intercourse laws? Let us suppose this case to be (which we do not in fact believe it to be, but still it is possible,) that the arrangement had been made with a corrupt intention of giving irrevocable and irreparable advantage to a foreign nation; and suppose our citizens had sustained great losses in consequence and the public character injured—and although this does not appear and no one has any belief in the fact, still it is possible it may exist, and therefore it is possible that the interposition of Congress may be necessary hereafter; and we are about prejudging the case, and, as it were, giving an extra-judicial opinion.

I have also endeavored to show that there was no truth or foundation in what has been alleged for fact for the support of the resolution, and this is my firm belief. It must be a very extraordinary case to induce the adoption of a resolution when the premises are not supported by fact.

As to the powers of Mr. Erskine, or the question upon this head, I will not repeat what I have already said, but I will ask gentlemen attentively to consider whether they were supporting the dignity of their own Government in the course they were pursuing? This subject will be canvassed by the whole Diplomatic Corps throughout the civilized world. In every country where there is printed a gazette or newspaper of any kind, this affair will be discussed. Is it the wish of the friends of the Executive to hold up to the view of foreign nations the incompetency of their own Cabinet or ignorance of the laws pertaining to diplomacy? Was it not infinitely more for the honor of the Cabinet to allow that they supposed Mr. Erskine had competent authority and took his word for it, than that they did not understand what was requisite, to give a Minister authority to conclude an agreement of this nature; and that it was not an arrangement they entered into with the Minister knowing him to be without authority, but that the Minister, misconceiving his instructions, had misled them; and that the object of the President was to get rid of the non-intercourse which imposed such heavy restrictions upon our own commerce and injured no one but our own people, and that these considerations

caused him to overlook what ought to have been attended to? This appears to me the most favorable point of view in which the whole subject can be placed.

No one can more deeply regret than I did the unfortunate situation of Mr. Erskine; and if it were necessary I would go as far as the gentleman from Virginia (Mr. EPPES) had done the other day in his exculpation. I never knew a more anxious man or one more desirous of preserving the peace between our respective countries, or who appeared more sincerely to have the honor of his king and country at heart; and it is evident to me that his mistake proceeded from his great zeal and anxiety, and that his error was certainly not that of the heart. At the same time I cannot say that Great Britain has acted perfidiously—very far from it. The nation that makes a treaty and wholly disregards it, is justly entitled to opprobrium.

It is a circumstance much to be lamented that certain offensive expressions should have found their way into the correspondence of Mr. Erskine, as coming from our Government. At the time when I first read the letters, the thing struck me disagreeably, but I hoped and expected it would have been overlooked. And I think I can see something of the same nature pervading the whole correspondence with Mr. Jackson—something not of the most conciliatory kind. Should the first letter of Mr. Smith have been presented to me at the time, I think I should have pronounced that the negotiation would have ended in an open rupture. When people meet to negotiate where is the necessity of this austerity or ungracious manner of conversation? What otherwise could have been expected than a similar return?

Having made these observations, I will conclude with saying I most ardently wish an end may be put to this business by the motion prevailing. It will save much controversy in the newspapers, in State Legislatures, and disunion and strife among the people, as well as the national evils to which they may unfortunately expose us, and with these views I submit the question to the decision of the House.

When Mr. LIVERMORE concluded, (half past six,) the motion for indefinite postponement was negatived—yeas 44, nays 73, as follows:

YEAS—Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Samuel W. Dana, John Davenport, jun., William Ely, James Emott, Barent Gardenier, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Richard Jackson, jr., Herman Knickerbacker, Joseph Lewis, jr., Edward St. Lee Livermore, Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Jonathan O. Mosely, Joseph Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Samuel Smith, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

JANUARY, 1810.

Trade to the Baltic.

H. OF R.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Howell Cobb, James Cochran, James Cox, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Peterson Goodwyn, Daniel Heister, Wm. Helms, Benjamin Howard, Jacob Hufty, Robert Jenkins, Richard M. Johnson, Thos. Kenan, William Kennedy, John Love, Aaron Lyle, Robert Marion, Samuel McKee, Alexander McKim, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newbold, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Henry Southard, John Taylor, John Thompson, Charles Turner, jr., Robert Weakley, Robert Whitehill, and Robert Witherspoon.

WEDNESDAY, January 3.

Mr. MORROW, from the same committee, presented a bill supplementary to the act, entitled "An act regulating the grants of land appropriated for the refugees of Canada and Nova Scotia;" which was read twice and committed to a Committee of the Whole on Monday next.

Mr. RUEA, of Tennessee, presented a petition of the representatives of a general committee, chosen by the inhabitants of the Territory of Upper Louisiana, praying that a revision of the land laws of the United States for the Territory aforesaid may be made, and that such claims as shall appear meritorious and just, and are not provided for in any existing law, may be immediately confirmed.

The petition was referred to the Committee on the Public Lands.

Mr. QUINCY presented a petition of a committee appointed by the manufacturers of paper within the State of Massachusetts, praying that an additional duty may be laid upon paper imported from foreign countries.—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. McKIM,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire whether any, and, if any, what further provisions are necessary more effectually to secure the collection of duties imposed by law on imports; and that the committee have leave to report by bill, or otherwise.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of

Representatives of the United States.

The act authorizing a detachment of one hundred thousand men from the militia, will expire on the thirtieth of March next. Its early revival is recommended, in order that timely steps may be taken for arrangements such as the act contemplated.

Without interfering with the modifications rendered

11th CON. 2d Sess.—35

necessary by the defects or the inefficacy of the laws restrictive of commerce and navigation, or with the policy of disallowing to foreign armed vessels the use of our waters, it falls within my duty to recommend also, that, in addition to the precautionary measure authorized by that act, and to the regular troops, for completing the legal establishment of which enlistments are renewed, every necessary provision may be made for a volunteer force of twenty thousand men, to be enlisted for a short period, and held in a state of organization and readiness for actual service, at the shortest warning.

I submit to the consideration of Congress, moreover, the expediency of such a classification and organization of the militia as will best insure prompt and successive aids from that source adequate to emergencies which may call for them.

It will rest with them also to determine how far further provision may be expedient for putting into actual service, if necessary, any part of the naval armament not now employed.

At a period presenting features in the conduct of foreign Powers towards the United States which impose on them the necessity of precautionary measures involving expense, it is a happy consideration that such is the solid state of the public credit, that reliance may be justly placed on any legal provision that may be made for resorting to it, in a convenient form, and to an adequate amount.

JAMES MADISON.

JANUARY 3, 1810.

On motion of Mr. DAWSON, so much of the said Message as relates to the organization and classification of the militia, was referred to the committee, appointed on the first ultimo, on the same subject.

So much of the said Message as relates to raising a volunteer force, was referred to the committee appointed, on the said first ultimo, on the Military Establishment of the United States.

So much of the Message aforesaid as relates to the "naval armament," was referred to the committee appointed, on the first ultimo, on the Naval Establishment of the United States.

So much of the said Message as relates to the finances, was referred to the Committee of Ways and Means.

Mr. WITHERSPOON said he held in his hand the petition of James Dennes, a disabled man, which he begged leave to present. It is (said he) the claim of a man now in your Navy Yard, who has had the small pox in the natural way, which has rendered him an object claiming the compassion and aid of this House; one of the eyes is entirely out; the vision of the other much impaired. If the petition is received and referred, I will, instead of producing documents to support his claim, present his mangled and pitiable face to the committee. The petition was read and referred.

TRADE TO THE BALTIC.

Mr. BURWELL said that he had given to the subject of our foreign relations as much consideration as he was capable of doing, and digested some plan which appeared to him best adapted to the present situation of the country. It would be recollected, however, that they had seen in the

papers that France either had blockaded or did contemplate the blockade of all the ports not embraced in the British orders; and they had seen in the papers a paragraph intimating that a project existed to close the northern ports against all vessels but those of France. He conceived it necessary to call for any information which by possibility might be in possession of the Executive on this subject, as such information, if to be obtained, might have some influence upon his mind as to the course proper to be pursued; and therefore moved the following resolution:

Resolved, That the President of the United States be requested to lay before this House any information he may possess relative to the blockade of the ports of the Baltic by France, and the exclusion of neutral vessels by Russia, Sweden, and Denmark.

The motion was agreed to without opposition, and Mr. BURWELL and Mr. GARDNER appointed a committee to wait on the President accordingly.

CONDUCT OF THE BRITISH MINISTER.

The House resumed the consideration of the unfinished business of yesterday, being the resolution from the Senate approving the conduct of the Executive in refusing to receive any further communication from Francis James Jackson, &c.

The resolution was ordered to be read a third time.

To-morrow was named as the day on which it should be read a third time, and negatived, ayes 32.

The resolution was then ordered to be read a third time to-day.

Mr. NEWTON—Mr. Speaker: It is with regret, sir, I feel myself constrained to offer some observations on the resolution from the Senate now on its passage.

I am not ignorant that I am trespassing on your patience, and that, at this late period of the discussion, I address you to no little disadvantage; but I derive, under such discouragement, great satisfaction in knowing that your politeness and indulgence are at all times the same.

I lament, sir, that the discussion has not been confined to the subject which the resolution presents for consideration, but, as I had no control over the debate, I am compelled to pursue it through the meanders it has taken.

As silence on the observations which have been made, though on points foreign to the one in debate, may be ascribed to an acquiescence in their justness, I cannot refrain from apprizing you that I hold myself bound to answer such as shall, in my judgment, demand an answer. This course will compel me to discuss points no ways related to the one before the House.

I shall endeavor to atone for taking this range by giving to each subject a separate consideration, and by observing a due regard to brevity. With this apology, I hasten in the first instance to the discussion of the competency of Mr. Erskine's powers to conclude the provisional agreement of the 19th of April last.

I put aside from this discussion the instructions to Mr. Erskine authorizing him to tender repara-

tion for the attack on the Chesapeake, because his power so to act has not been distinctly questioned. The gentlemen who have preceded me on the same side of the question have sustained, I trust to your satisfaction, and that of the House, the competency of Mr. Erskine's powers to make and conclude the arrangement of the 19th of April last. Persuaded, as I am, that they have performed this task with great ability, I will not tire your patience by passing over the same ground, nor by citing the same authorities on which they relied to support their arguments.

I will permit myself only to take up the discussion at the points which terminated their remarks. I will content myself with furnishing some authorities not pressed into service, in support of the positions taken by them. That Mr. Erskine was a Minister Plenipotentiary, cannot be denied; in that character he was received, and in that he acted until he was recalled, is equally true. The propositions made by him in that character were received and acted upon as the propositions of his Government. The Executive of the United States had no control over his private instructions; no right to demand an exhibition of them; they were given for the government of the Minister's conduct. If he acted in contravention of his secret orders, over which his power was absolute, he became responsible to his Sovereign for his non-observance of them; but his public acts must necessarily be binding and obligatory, originating, as they must be considered, in the general and avowed powers of the Minister, exercised in conformity to his private instructions. If his secret instructions limit his general commission, he is bound honestly to apprise the Government with which he is negotiating of the fact. He ought to say, to this boundary I can go; beyond it I cannot pass. To illustrate this doctrine, which I hold to be sound and correct, I will give as an instance the chaste conduct of Mr. Monroe and Mr. Pinkney, who, previous to affixing their signatures to the treaty concluded by them with the British Commissioners, publicly apprized the Commissioners that they had no authority to bind the Government of the United States, as their instructions did not permit them to conclude a treaty which should not contain stipulations against impressments. The fate of that treaty is known. It was rejected. The British Government could not complain, because it was previously informed that the Ministers of the United States had no power to form such a treaty.

Mr. Erskine never entertained a doubt but that his powers were competent to the formation of the arrangement of April last. He unhesitatingly declared, in submitting his propositions for suspending as to the United States the operation of the Orders in Council, that he was commanded by His Majesty to submit them to the consideration of the Executive of the United States. I will prove this statement by his letter of April 18, 1809, and others, addressed to the Secretary of State. He says:

"The favorable change in the relations of His Maj-

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

esty with the United States which has been produced by the act usually termed the non-intercourse act, passed at the last session of Congress, was also anticipated by His Majesty, and has encouraged a further hope that a reconsideration of existing differences might lead to their satisfactory adjustment. On these grounds and expectations, I am instructed to communicate to the American Government His Majesty's determination of sending to the United States an Envoy Extraordinary, invested with full powers to conclude a treaty on all points of the relations between the two countries. In the meantime, with a view to the attainment of so desirable an object, His Majesty would be willing to withdraw his Orders in Council of January and November, 1807, so far as respects the United States, in the persuasion that the President would issue a proclamation for the renewal of the intercourse with Great Britain, and that whatever difference of opinion should arise in the interpretation of the terms of such an agreement, will be removed in the proposed negotiation."

In another letter, of April 19, he says:

"In consequence of the acceptance by the President, as stated in your letter of the 18th instant, of the proposals made by me on the part of His Majesty, in my letter of the same day, for the renewal of the intercourse between the respective countries, I am authorized to declare that His Majesty's Orders in Council of January and November, 1807, will have been withdrawn, as respects the United States, on the 10th day of June next." (1809.)

The above extract from Mr. Erskine's letters leave us in no suspense as to the opinion he had formed of his instructions. In this settled belief that he had conformed strictly to the instructions of his Court, we find him so late as June 15, 1809, when he notified to the Secretary of State the new Order in Council issued on the 26th of April last. In this letter he says:

"In consequence of official communications sent to me from His Majesty's Government, since the adoption of that measure, I am enabled to assure you that it has no connexion whatever with the overtures (of the 19th of April, 1809,) which I have been authorized to make to the Government of the United States, and that I am persuaded that the terms of the agreement so happily concluded by the recent negotiation, will be strictly fulfilled on the part of His Majesty. The internal evidence of the order itself would fully justify the foregoing construction, and, moreover, it will not have escaped your notice, that the repeal has not thereby been made of the orders of the 7th of January, 1807, which, according to the engagement I have entered into on the part of His Majesty, is to be abrogated with the other orders, in consequence of the adjustment of differences between the two countries, and the confidence entertained of a further conciliatory understanding."

Thus it appears that Mr. Erskine, from communications, subsequent to the 26th of April, from his Government, is decidedly of opinion that he acted within the pale of his instructions. His language is free from ambiguity. He says: "In consequence of official communications sent to me from His Majesty's Government, since the adoption of the order of the 26th of April, I am enabled to assure you it has no connexion whatever with the terms of agreement concluded

by the recent negotiation." Nothing can be clearer than that his opinion was made up on a full consideration of all the instructions received by him from his Government. This must be evident to the most superficial observer on reading the following extract from a letter of the 14th August, 1809, addressed by him to the Secretary of State. It is as follows:

"Under these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning's despatch of the 23d of January, (which formed but one part of his instructions to me,) in the formal manner required, I considered that it would be in vain to lay before the Government of the United States the despatch in question, which I was at liberty to do *in extenso*, had I thought proper. But as I had such strong grounds for believing that the object of His Majesty's Government could be attained, though in a different manner, and the spirit, at least, of my several letters of instructions be fully complied with, I feel a thorough conviction on my mind that I should be acting in conformity with His Majesty's wishes, and, accordingly, conclude the late provisional agreement on His Majesty's behalf with the Government of the United States."

The British Government could not, from this view, disavow the act of its Minister without incurring, and that justly, the charge of bad faith. To give support and nerve to this inference, I will read a passage from an author of great celebrity, *Burlemaqui*. The author says: "If he who has a commission to treat has kept within the bounds of the power annexed to his office, though he acts contrary to his private instructions, the Sovereign is to abide by what he has done; otherwise, we could never depend on engagements contracted by proxy." This authority is full, and in point; it covers the whole ground; it leaves no fissures through which crafty politicians can make an escape. On the reputation of the British Government it fixes a blot which nothing short of the power of time can efface.

I will now, sir, endeavor to show that the Executive of the United States, in the formation of the arrangement with Mr. Erskine, conformed to the practice heretofore pursued by the administrators of this Government; and, I might add, without the fear of refutation, that it is a practice coeval with the dawn of civilization. I render my thanks to the gentleman from Connecticut (Mr. DANA) for directing my attention to an authority which sustains the position I have taken. My allusion is to the celebrated correspondence between Mr. Jefferson and Mr. Hammond in 1791. I will read such parts of this correspondence as have a bearing on this subject, and I will then show its application.

Extract of a note, November 29, 1791, from Mr. Jefferson to Mr. Hammond:

"Permit me, then, to ask whether you are instructed to give us explanations of the intentions of your Court as to the execution of the seventh article of the definitive treaty between the United States of America and His Britannic Majesty? With respect to the commerce of the two countries, we have supposed that we saw, in several instances, regulations on the part of your Government, which, if reciprocally adopted, would

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

materially injure the interest of both nations. On this subject, too, I must beg the favor of you to say whether you are authorized to conclude or to negotiate arrangements with us which may fix the commerce between the two countries on principles of reciprocal advantage."

Note of November 30, from Mr. Hammond to Mr. Jefferson:

In stating to you this indispensable consideration, (to wit, the discussion of the fourth, fifth, and sixth articles of the same treaty.) I must, at the same time, assure you that, in confidence of experiencing a similar disposition in the Government of the United States, it is His Majesty's desire to remove every ground and occasion of misunderstanding which may arise between the two countries; and, in conformity to that disposition in His Majesty, I can add, that I am instructed to enter into the discussion of all such measures as may be deemed the most practicable and reasonable for giving effect to those stipulations of the definitive treaty, the execution of which has hitherto been delayed, as well by the Government of this country as by that of Great Britain. In answer to your question on the subject of the commerce of Great Britain and the United States, I can inform you, sir, that the King is sincerely disposed to promote and facilitate the commercial intercourse between the two countries, and that I am authorized to communicate to this Government His Majesty's readiness to enter into a negotiation for establishing that intercourse upon principles of reciprocal benefit."

In an explanatory note, December 6th, Mr. Hammond expresses himself thus:

"As I am extremely solicitous to avoid any misrepresentation of my letter of the 30th ultimo. I have now the honor of stating to you, in explanation of that part of it to which you have adverted in yours of yesterday, that, although, (as I formerly mentioned in my first conversations with you after my arrival in this country) I am not, as yet, empowered to conclude any definitive arrangement with respect to the commercial intercourse between the two countries, I still meant it to be understood that I am fully authorized to enter into a negotiation for that purpose, and into the discussion of such principles as may appear best calculated to promote that object on a basis of reciprocal advantage. I am farther authorized to receive any propositions which this Government may be pleased to make to me upon this subject."

Mr. Jefferson's answer is dated December 13th:

"I have laid before the President of the United States the letters of November 30th and December 6, with which you honored me, and, in consequence thereof; and particularly of that part of your letter of December 6th, where you say that you are fully authorized to enter into a negotiation for the purpose of arranging the commercial intercourse between the two countries. I have the honor to inform you that I am ready to receive a communication of your full powers for that purpose, at any time you shall think proper, and to proceed immediately to their object."

Mr. Hammond's answer of the 14th of December, is as follows:

"In answer to your letter of yesterday, I can only repeat what I have before stated in my first conversation with you after my arrival, and, subsequently, in my letter of the 6th of this month, viz: that I have no special commission empowering me to conclude any

definitive arrangement upon the subject of the commercial intercourse between Great Britain and the United States. But that I conceive myself fully competent to enter into a negotiation with this Government for that purpose, in the discussion of the principles which may serve as the basis, and constitute the stipulations of any such definitive arrangement."

"This opinion of my competency is founded upon my instructions, inasmuch as they are to regulate my personal conduct, and upon the conviction that the letters of credence from His Majesty, investing me with a general plenipotentiary character, which I had the honor of presenting to the President of the United States, and his consequent recognition of me in that character, are authorities decidedly adequate to the commencement of a preliminary negotiation."

On receiving this letter, Mr. Jefferson no longer insisted on a previous communication of Mr. Hammond's special commission or instructions. Mr. Hammond derived his powers from his plenipotentiary character and from his instructions which were to regulate his personal conduct. The last he did not exhibit. His letters of credence were in the hands of the Secretary of State.

That Mr. Jefferson was satisfied with the exposition of Mr. Hammond's competency, made out by himself in his correspondence, is clearly ascertained from the subsequent acts and conduct of Mr. Jefferson. The seventh article of the definitive Treaty of 1783, and the formation of a basis for a Treaty of Commerce, depended on the result of the discussion between him and Mr. Hammond. Mr. Jefferson could not, in justice to his own reputation and that of the Administration, commit the interest of his country to a diplomatic arrangement, the execution of which when made should be uncertain; one which should not reciprocally bind both Governments; but he was convinced that he was leaving nothing at hazard, to uncertainty, so far as a right construction of powers was concerned. The following extract from his letter of December 15th, to Mr. Hammond, which opens the discussion with Mr. Hammond, speaks for itself:

"I am to acknowledge the honor of your letter of November 30th, and to express the satisfaction with which we learn that you are instructed to discuss with us the measures which reason and practicability may dictate for giving effect to the stipulations of our treaty yet remaining to be executed. I can assure you, on the part of the United States, of every disposition to lessen difficulties, by passing over whatever is of smaller concern, and insisting on those matters only which either justice to individuals or public policy render indispensable; in order to simplify our discussions by defining precisely their objects, I have the honor to propose that we shall begin by specifying, on each side, the particular acts which each considers to have been done by the other in contravention of the treaty. I shall set the example."

The language of this extract justifies the propriety of the observations made. It shows clearly that Mr. Jefferson did not receive from Mr. Hammond a communication of his instructions. "I am," says Mr. Jefferson, "to acknowledge the honor of your letter of November 30th, and to express the satisfaction with which we learn

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

'that you are instructed to discuss with us the measures which reason and practicability may dictate for giving effect to the stipulation of our treaty, yet remaining to be executed.' On reading this, and other parts of the correspondence attentively, every doubt must be removed; even the sceptic will become credulous.

A comparative view of the negotiations carried on with Mr. Hammond under the Administration of President WASHINGTON and the one carried on lately with Mr. Erskine under the direction of the present Chief Magistrate may not be altogether useless. It may awaken reflections.

The observer cannot but see a striking similarity in the negotiations. The object of both was to settle misunderstandings and to remove complaints, by entering into and concluding arrangements which should mutually bind both parties. The correspondence with Mr. Hammond was to obtain, among other things, the delivery to the United States of the Western posts, and also to form a basis of a commercial treaty to be concluded, when adjusted, by a communication from His Majesty of proper powers for that purpose.

Mr. Erskine was charged to make, in the name of His Majesty, reparation for the attack on the Chesapeake, and also to form a provisional agreement with the Executive of the United States, which should suspend as to the United States the Orders of Council of January and November, 1807, on the President's agreeing to issue a proclamation "for the renewal of the intercourse with Great Britain." On the arrangement being made, an Envoy Extraordinary was to be sent to the United States by His Majesty, "invested with full powers to conclude a treaty on all points of the relations between the two countries." This extract is from Mr. Erskine's letter of April 18th, 1809. Mr. Hammond, did not show his instructions, nor did Mr. Erskine. Both derived their powers to act from their plenipotentiary commissions and their private instructions. The present Administration, therefore, ought to be exonerated from censure, for pursuing the same course which was pursued under the Administration of the illustrious WASHINGTON.

I will now prove that, in the late correspondence between the Secretary of State and Mr. Jackson, the same practice has been adhered to. In a letter of October 19, 1809, page 48, addressed to Mr. Jackson, the Secretary of State says:

"Whatever may have been your intention in this part of our conversation (affair of the Chesapeake) or whatever may be the import of the passage to which I have just alluded, I have now the honor of signifying to you that I am authorized to receive, in a proper form, whatever explicit explanations you may choose to make with respect to the grounds of this part of the disavowal; and without inquiring whether your authority be derived from instructions that have been addressed to yourself, or that have devolved on you as the successor of the Minister who had declined to execute them."

It is worthy of remark that the same practice, heretofore observed, was continued after the dis-

vowal of Mr. Erskine's arrangement, by the Executive, under circumstances that would have warranted a demand of Mr. Jackson's powers. This demand, however, was not made until Mr. Jackson had assumed so many questionable shapes, that a departure from the common practice became absolutely necessary, to guard the nation from the impositions, sinister views, and equivocations of a diplomatic Proteus.

It is, sir, to be lamented that the judgment should be circumscribed in its operations by the violence of the passions and by the prevalence of prejudices. We are informed by philosophers, that man, in contemplating objects, is too much inclined to see in them those things only that are flattering to his views. Helvetius, who looked into man with a penetrating eye, also noticed this propensity, and has given an instance of its influence in verification of the assertion. He represents a lady and a clerical gentleman viewing the moon through a telescope. The lady, whose attention was given to the contemplation of the most amiable feelings, and propensities of the heart, soon espied two persons;—doubtless, says she, they are lovers, they approach each other with grace and tenderness: the clerical gentleman, whose thoughts were also turned to the consideration of objects no less interesting than profitable, soon discovered that it was a deception of vision, for the persons whom the lady took to be lovers, were, in truth, the steeples of a cathedral.

The *deceptio visus* is the epidemic of politicians. In the discussion of the resolution from the Senate, its effects are striking. Gentlemen are determined to see error in all acts of the President, and error is accordingly manifest. The President cannot do right, because he was not elected from the true sect.

I now proceed to prove, that His Britannic Majesty was bound by every principle that can give an honest impulse and direction to actions, to carry Mr. Erskine's arrangement into execution. Do unto others as you desire they should do unto you, is a rule of conduct that applies as well to a nation as to an individual. The former is but an assemblage of individuals; such a society has its affairs and interests, it deliberates and takes resolutions in common, and thus becomes a moral person, and, according to Vattel, having an understanding and a will peculiar to itself, and is susceptible of obligations and laws. Government is but the agent of the nation. An individual who receives the benefit of a good action, even without obtaining it by previous stipulation, is irresistibly prompted to reciprocate it. A nation that regards its honor is prompted to act from the influence of a like motive.

The law of nature, which is the basis of the law of nations, inculcates justice, amicable intercourse, and a mutual interchange of good offices. No nation can attain the prosperity it desires, but through the observance of its maxims and precepts. Temporary advantages may be obtained by fraudulent practices; a permanent good can have its foundation laid in principles only that are ac-

knowledge to be correct; principles that receive the universal homage of man, saint or savage.

It cannot be denied but that Great Britain derived incalculable advantages from the stipulations of Mr. Erskine's arrangement. That public wants of the most urgent nature, and individual distresses, were supplied and relieved by the renewal of intercourse with the United States, is likewise manifest. The state of that nation at the time the provisional agreement was made, evidently mortified the pride of its high-toned rulers, and alarmed their fears by showing to the world its absolute dependence on foreign supplies.

A transient view of prospects, then exhibited by her foreign relations, will subtract nothing from the solidity of the position laid down. The ports of Sweden, it is true, were open; that country, however, afforded but chilling prospects to mercantile enterprise. Those who looked beyond the passing moment saw that those ports would not long continue open. The revolution in Spain excited hopes that could be realized only by a series of events over which Great Britain had no control; instead of pouring wealth into her lap, it became a drain for her men and money.

As to the flattering anticipations of commercial advantages with the new Empire of Brazil, and Spanish America, they vanished like a dream. The price current of British manufactures in those markets—the merchant's barometer—was from twenty-five to thirty per centum below first cost.

At the critical period, when the demand for supplies was most urgent, Mr. Erskine tendered his propositions, they were received by the President in a manner the most conciliatory, and accordingly terminated in the arrangement of April last. The supplies which were sent under the faith and protection of that arrangement had nearly reached the destined ports, and were anxiously expected by the nation, when the disavowal of it by the Cabinet of St. James was proclaimed. Even in times so fruitful as these are in crimes, and in every species and description of perfidy, the voice of morality and honor recovered its tone, and pronounced an anathema on the deed. Permit me now, sir, to test that disavowal, which forms a new epocha in the reign of His Majesty, by the rules and maxims of the laws of nature and of nations. Let the sages of those sciences be consulted. Their writings may be resorted to as impartial authorities. If those authorities denounce the act of His Majesty as immoral and unjust, they do so on the sanction of rules and maxims which were in being before the island of Britain emerged from the ocean, that are based on principles coeval with that period of time when the God of nature spoke chaos into order.

Burlemaqui says:

"The Sovereign may also be obliged to execute the engagements contracted by his Ministers without his orders, by the law of nature, which forbids us to enrich ourselves at another's expense. Equity requires that, in such circumstances, we should exactly observe the conditions of the contract, though concluded by Ministers who had not full powers."

This authority is conclusive, and is alone sufficient to bear down and overthrow the master works of sophistry. If more should be wanting, Vattel, Grotius, and other writers of celebrity, can be marshalled in its defence. This authority renders any further argument useless. It establishes my position—that, as His Britannic Majesty obtained a renewal of intercourse between the United States and Great Britain under the provisional arrangement, concluded with the President of the United States by his accredited Minister Plenipotentiary, acting, according to his declaration, in conformity to His Majesty's instructions, His Majesty became bound to execute the arrangement on his part—particularly as His Majesty's subjects had enjoyed a harvest of benefits resulting from the execution of that arrangement by the Government of the United States; and, also, as it was impossible for His Majesty, from the nature of things, to place the United States in the same position which they were induced to relinquish, by the act of his Minister; which act grew out of the exercise of powers derived from his commission, and from his private instructions.

Indulge me, sir, in making a few observations on the manner in which authorities have been introduced, and the purposes to which they have been made subservient. My object is to keep subjects bearing an exact similitude to each other as distinct as possible. I expect to derive no advantage from a confusion of things. The executed agreement with Mr. Erskine has been confounded with a treaty, the most solemn act that a Minister can perform. If I prove that the rules, as laid down by those gentlemen who have preceded me, are inapplicable to treaties in the extent contended for, they will be equally so to agreements, particularly to that class called executed agreements. The Sovereign usually reserves to himself the power of ratifying treaties; from this reservation, gentlemen infer that under no circumstances can a treaty be binding without the observance of the formality. They take the rules as laid down, and give them such construction as best answers their several positions, without deigning to inform us how the authors have applied them. I will, sir, with your permission, make two of the authors, *Vattel* and *Burlemaqui* answer for themselves. It will be too tedious to hear all.

Those authors do certainly furnish the rules as quoted in relation to treaties; but they do not say that a treaty concluded by a Minister with full powers, is rashly and capriciously to be rejected. *Vattel* says:

"To refuse with honor to ratify what has been concluded on by virtue of a full power, it is necessary that the Sovereign should have strong and solid reasons, and that he should show in particular that his Minister has deviated from his instructions."

Burlemaqui, on the same point, says:

"In general it is certain that, when Ministers, without the order of their Sovereign, conclude a treaty concerning public affairs, the latter is not obliged to stand to it; and the Minister who has entered into the

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

negotiation, without instructions, may be punished according to the exigency of the case. However, there may be circumstances in which a Prince is obliged, either by the rules of prudence, or even those of justice and equity, to ratify a treaty, though concluded without his orders."

In these passages, the authors give precision and exactness to their rules. If the Minister, with full powers, undertake to conclude a treaty, the Sovereign cannot render it void, "without strong and solid reasons;" in some instances, "a Prince is obliged, either by the rules of prudence, or even those of justice and equity, to ratify a treaty, though concluded without orders."

These authorities make it no ways necessary for me to go further into this point. It is immaterial to me whether gentlemen apply the rules to treaties, or agreements, or conventions; they can by no act destroy the effect which those citations produce. My object was, sir, to give to the authors the right of their own expositions—they have exercised their prerogative. I shall be satisfied with the result, whatever it may be—on their authority I rest—I feel confident I cannot err when I follow them.

Let us now reverse the order of things—let us suppose that the Secretary of State had demanded a sight of Mr. Erskine's instructions, authorizing him to submit certain propositions to the consideration of the Executive of the United States, after his solemn declaration that he had His Majesty's command so to act. Let us suppose that Mr. Erskine had construed the demand into a distrust of the truth of his declaration, officially made, and as an indignity offered to His Majesty's good faith; and, under such an impression, had closed the door of negotiation. What would have been the language of gentlemen on the meeting of Congress in May last? Hostility to Great Britain and partiality to France would have been set to a new note. We should have had a concert of base, treble, tenor, sharps, and flats. Instead of smiles, the President would have received frowns; instead of praises and eulogies on his good sense, prudence, and promptitude in accepting the terms offered, expressions of discontent would have been loud and impressive; they would have been made here, and re-echoed from the shores of the Atlantic, even to the sources of the Missouri.

Past transactions are worthy of remembrance, and sometimes of repetition. The chameleon may take the hue of surrounding objects, but his change of color does not new-model his figure, form, or character.

Let us, for a moment, bring to our recollection the occurrences which took place, and the orthodox opinions which were held, at the time when the honor and dignity of this nation were deeply wounded, (a wound not yet healed,) in the attack of the Chesapeake; when the blood of American citizens was wantonly shed, and when the British squadron, after the commission of an act so atrocious, in violation of the jurisdiction of the United States, anchored in Hampton Roads and interrupted the regular communication between

Norfolk and other places. After having taken a review of facts, let us compare the opinions of that day with those subsequently delivered; and, by the standard of consistency, test them.

The President, soon after the commission of those outrages, issued his proclamation, interdicting the entrance of the waters of the United States to the public armed vessels of Great Britain. That act of the President was considered as just and proper, as flowing from moderation and wisdom. The propriety of it was defended on the declaration to the Executive by Mr. Erskine, that it was his firm belief that Admiral Berkeley had acted without orders. Keep in force the proclamation, was the language of that memorable day, until reparation, ample and satisfactory, should be made. Such was the state of the public mind. Mr. Rose arrived; his mission, instead of having the salutary tendency of removing the irritations excited, was eminently calculated to nurture and increase them. Insults were added to injuries. Before he would deign to make known to the President the nature and extent of the reparation he was authorized to offer, he demanded the revocation of the President's proclamation; in plain terms informing this nation that its Government should make concessions to His Majesty for using precautionary measures against the lawless acts of his officers, as a prerequisite to a tender of the reparation His Majesty had condescended through him to offer. This new mode of redress proving no ways satisfactory, Mr. Rose's mission terminated. No sooner was it known that the negotiation with Mr. Rose proved abortive, in consequence of the inadmissible demands made by him, as already stated by me, than the President was openly accused as being the cause of it, by adhering to a "mere punctilio."

Thus, sir, we see, that no Republican President can do right, when his actions are viewed through the medium of party spirit.

The people must judge for themselves. Their good sense is the standard by which public measures are to be tried. To that standard is the last appeal to be made.

I conceive it to be my duty, before I close this branch of my argument, concisely to state, what, in my opinion, are the real causes of the disavowal of Mr. Erskine's provisional agreement. The recommencement of hostilities between France and Austria, combined with other incidents, raised an expectation, that a new and favorable order of things was to take place. This hope never rose in the mind of His Britannic Majesty, without a consequent pressure upon the neutral rights of the United States.

The unprincipled violations of the embargo operated to favor the views of Great Britain, by lessening the efficacy of that salutary measure. A cabinet whose policy, of late, is to pursue the expedient, desperate soever it may be, to accomplish its end, resolved to wait the issue of events, and try the wonder-working powers of its machinations.

The disposition has been manifested by inflam-

matory publications against the Government of this nation, by opposition to laws constitutionally made, and by crude and wicked projects, the object of which was to sever the Union. Such a state of things would naturally excite, in Powers no ways friendly to our prosperity, a disposition to increase, through intrigue and artifice, the difficulties the nation had to encounter. In times such as the world never before witnessed, dangers of every degree and description beset the highway, to avoid which, the prudent politician saw no means left but to make a temporary stop, to pause. This pause, produced by imperious necessity, the consequence of foreign outrages, would necessarily subject the citizen to inconveniences and privations. As it is too common to impute to the fault of the Government all the embarrassments that are felt and experienced; ambition and finesse, artifice and intrigue, ever on the watch, are prompt to seize the opportune moment, for extending the empire of confusion and distrust, and, on the ruins of social order, to lay the foundation of a power malignant to the happiness of man.

The lynx-eyed tyrants of the world, see, hear, act. The want of union among ourselves inspires them with confidence to commence the works of iniquity, and their machinery is making progress, to demolish the last asylum which benignant Heaven has given to persecuted man. The British Government would not dare to trample on the rights of the nation if union were to dictate the measures that should govern our conduct in all our foreign relations. Will the Orders of Council be revoked? Will honorable reparation for the attack on the Chesapeake be made? Will the almost endless catalogue of our wrongs be redressed, when the energy of union is wanting; when, in the estimation of our own rights, intellect is so deficient, as to discern in the acts of the British Government neither insults nor injuries? When, at the close of Mr. Rose's temporizing mission, a time-serving publication was industriously circulated maintaining this position—"that Great Britain had done the United States no essential injury!"

What, sir, will be the opinion entertained of the American people and Government by the haughty and high-toned rulers of Europe, when the works of Fisher Ames, once the high priest of a political sect in Massachusetts, are read? Sentiments of ineffable contempt will be felt for a people, represented to be so base and degraded. Let Mr. Ames's works proclaim their own merits. The following passages are extracted. I trust in God they will arouse the American Genius from his slumbers:

"Our country is too big for union; too sordid for patriotism; too democratic for liberty."

"I am half of Talleyrand's opinion, when he says, we are phlegmatic, and without any passion except for money getting."

"It is one of the most consuming curses of Heaven, and we deserve it, to commit the affairs of the nation to rulers who find, in their popularity, their rapacity,

or their ambition, an interest separate from the interest of the people."

"I have hoped that the sacred shield of cowardice, as Junius calls it, would protect our peace. I still hope."

"After her fall, [Britain,] ours would not cost Bonaparte a blow. We are prostrate, already, and of all men on earth the fittest for slaves. Even our darling avarice would not make a week's resistance to tribute, if the name were only disguised; and I much doubt whether if France were lord of the navies of Europe, we should reluct at that, or even at the appellation and condition of Helots."

"They [the Administration] need not fear the moral sense, or sense of honor, or any other sense of our people, except their nonsense, which will take special good care to keep on their side."

"It is the nature of these [white birch stakes] to fail in two years; and a Republic wears out its morals almost as soon as the sap of a white birch rots the wood."

"Of our six millions of people, there are scarcely six hundred who yet look for liberty anywhere except on paper."

"The immortal spirit of the wood nymph, Liberty, dwells only in the British oak."

"It is pretty enough to say, the Republic commands and the love of the Republic dictates obedience to the heart of every citizen. This is system—but is it nature?"

"The Republic is a creature of fiction; it is everybody in the fancy, but nobody in the heart. Love, to be anything, must be select and exclusive. We may as well talk of loving geometry as of the Commonwealth."

"Is there in human affairs an occasion of profligacy more shameless or contagious than a general election? Every Spring gives birth and gives wings to this epidemic mischief. Then begins a sort of tillage that turns up to the sun and air the most noxious weeds in the kindest soil. To speak more seriously, it is a moral pestilence that begins with rottenness in the marrow."

"Federalism was, therefore, manifestly founded on a mistake, on the supposed existence of sufficient political virtue, and on the permanency and authority of the public morals."

"The great State of Virginia has fomented a licentious spirit among her neighbors."

To the following passages, I invite the serious attention of our Southern and Western brethren, whether Republicans or Federalists. The slander is general and illiberal. Such are the artifices to support Federal principles in Massachusetts. A power that originates in, and that is preserved by, deception, must expire in a convulsion. Mr. Ames says:

"The straggling settlements of the Southern part of the Union, which now is the governing part, have been formed by emigrants from almost every nation in Europe."

"Safe in their solitudes, alike from the annoyance of enemies and of Government, it is infinitely more probable that they will sink into barbarism than rise to the dignity of national sentiments and character."

"Are not the wandering Tartars or Indian hunters at least as susceptible of patriotism as these stragglers in our Western forests, and infinitely fonder of glory?"

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

It is difficult to conceive of a country, which, from the manner of its settlement, or the manifest tendencies of its politics, is more destitute or more incapable of being inspired with political virtue."

On these extracts I shall say nothing—they beggar all comments.

From this libel on the people and governments of this nation, I turn with pleasure to a source from which issues the American spirit.

Let the information which flows from it furnish us with a deep conviction that it is in vain to look for justice from foreign Powers, without union.

Mr. Monroe, whose situation afforded him the best means of ascertaining the policy of the British Government, and whose judgment is too enlightened to be deceived, says, in a letter, 4th of August, 1807, addressed to Mr. Madison, then Secretary of State:

"Such is the state of this country at the present crisis, that it is impossible to foresee what will be its course of conduct toward the United States. There has been at all times, since the commencement of the present war, a strong party here for extending its ravages to them. This party is combined of the shipowners, the Navy, the East and West India merchants, and certain political characters of great consideration in the State.

"So powerful is this combination that nothing can be obtained of the Government on one point, but what may be extorted by necessity."

If facts do not open our eyes—if information, chaste and convincing, cannot impress us with the necessity of concert, our fate will resemble that of Prometheus—on our vitals the vulture will continue to prey.

Having proved, I hope to your satisfaction, that the Government of Great Britain was under an obligation to carry the agreement made with Mr. Erskine into execution, I turn to the late correspondence between the Secretary of State and Mr. Jackson, the British Minister, under the influence of feelings that convince me I have yet an important duty to render to my injured country. I lament, sir, that my abilities are inadequate to the performance of it, but they shall, such as they are, be directed to its discharge. I am conscientiously persuaded, in what light soever I view this subject, that Mr. Jackson intended to insult, and that he has insulted, this Government. I say this Government, because if one branch of it be outraged with rudeness and insolence of conduct, the other branches must feel the shock, as the three branches compose but one Government. No sophistry can destroy this position. Suppose, sir, the gentleman from New York, (Mr. GORDON,) who seems to possess the power of torturing words, to bear any meaning, were gravely to tell you that the *college of illuminati* had established this doctrine, to wit: that if the arm of a man be broken, the body of which it is a member can sustain no injury, nor feel pain, because it is a part only that is injured, would you, sir, give your assent to the correctness of the theory? The gentleman cited *Vattel*, but he forgot to read and comment on those parts

which assign to the Executive branch of Government a dignified rank, or to advert to the Constitution of the United States, which is explicit as to the grade it holds in the management of public affairs. For a moment permit me to direct my attention to some observations made by the gentleman from Massachusetts, (Mr. QUINCY;) that gentleman has given us a philological disquisition, a labored criticism on the verbiage of Mr. Jackson's letters. The result of his efforts was, that the words, after weighing them with nicety and exactness, did not warrant the inference that Mr. Jackson had insulted the Government of the United States. This criticism is too finely spun; it has a constitution too delicate and fragile for so dense an atmosphere as ours, the humble region of common sense. While we, sir, are slowly and deliberately pursuing the order and course of things; while we are endeavoring to represent objects as they are, the honorable gentleman, disdainful such drudgery as unworthy his attention, skips over the superficies of human affairs; like Swift's speculative mathematicians, he leaves the dull pursuits of civil life to plodders. I have to regret, sir, that I am not so philosophically constituted; unfortunately for me, from my school days to the present time, my sense of injury has always been the same; it is quick, it is instantly alive. I did not then, nor can I now, kiss the rod that strikes me.

Having prepared the way for the discussion of this interesting and important subject, I now take it up, insulated, as it ought to be, from other topics. It is in itself abundantly fruitful. The manner in which this correspondence was opened and conducted, is worthy of consideration; it is novel, and without a precedent. It will be admitted by all reflecting men, that the intercourse and communications between Governments should be regulated in a style that forbids the practice of indecorum, levity, or insolence, as the peace and happiness of society are objects of the first moment. Misunderstandings between men in private stations, generally speaking, confine their ill-fated consequences to a narrow sphere, the judicial authority being competent, if exercised by able and virtuous judges, to assign limits to the mischief, and redress to the injured; but when the affairs of nations are intrusted to the management of Ministers, too much caution, prudence, forbearance, and circumspection, cannot be observed, as the misunderstandings between nations, from numerous causes, can seldom be adjusted without an appeal to the sword; an appeal which never fails to involve the innocent with the guilty in its merciless ravages. The United States have, during the wars of Europe, participated largely in their calamities without being a party. The Government of Great Britain has, in no instance, been sparing of its contempt for the rights of neutrality when it possessed the power to annoy or destroy them. The disavowal of Mr. Erskine's arrangement was an inauspicious omen of its disposition towards this country, and in the appointment of Mr. Jackson as the minister of peace and harmony, the reflecting part of the

community saw an utter disregard to the sensibility of a neutral nation.

The manifest policy of this Government being to avoid a collision with either belligerent, determined the Executive to give the new Minister a reception evincive of a disposition to adjust all existing differences in an amicable way. The reception of Mr. Jackson as the accredited Minister of His Britannic Majesty excited a general expectation that explanations would be made for the non-execution of Mr. Erskine's arrangement, and also that a tender of redress for past injuries would be offered. Expectation was however to be disappointed. Mr. Jackson's interviews with the Secretary of State issued in nothing that could afford the least satisfaction. It became highly important, in the state of our political relations, clearly to ascertain the intentions of the British cabinet. As Mr. Jackson had displayed no inclination to act, although his Government was the injuring party, the President, on deliberation, felt it as a duty incumbent on him to give solemnity to his communications with Mr. J. In consequence of this determination, the following letter is supposed to have been written, expressive of the sentiments of the President. The Secretary of State says to Mr. Jackson: "In such a state of things, no expectation could be more reasonable, no course of proceedings more obviously prescribed by the ordinary respect due to the disappointed party, than a prompt and explicit explanation by the new functionary of the grounds of the refusal on the part of his Government to abide by an arrangement so solemnly made, accompanied by a substitution of other propositions."

To prevent misunderstanding on all points the Secretary of State concludes his letter thus: "To avoid misconceptions incident to oral proceedings, I have also the honor to intimate, that it is thought expedient that our further discussions, on the present occasion, be in the written form." Mr. Jackson, either forgetful or ignorant of the right appertaining to every Government of establishing the form of communication between its proper functionaries and foreign Ministers, even of the practice of the British Government towards the Minister of the United States, Mr. Pinkney, who was required to make his communications in the written form, flew into a violent rage, and protested against the requisition of the Secretary of State, as one not having a precedent in the annals of diplomacy to support it. From reprobating this mode of procedure, because it deprived him of all chance of equivocation and evasion, he states, without mincing the matter, that he entertained no hope of the restoration of a thorough good understanding between the respective countries, because he was satisfied that no disposition on the part of the American Government existed to promote it. I will give you Mr. Jackson's own words; in his letter of the 11th of October, 1809, to the Secretary of State, he says: "I shall now proceed to the other parts of your letter, and apply to them the best consideration that can arise from a zeal proportioned to

the increase of difficulty thus thrown in the way of the restoration of a thorough good understanding between our respective countries."

To understand the state of Mr. Jackson's mind, and to comprehend his meaning, it is necessary to refer to letters subsequently written to the Secretary of State. In one of the 4th of November, 1809, after complaining of his being restricted to the honest mode of communication, the written form, Mr. Jackson expresses himself thus: "As, however, I had no choice but to renounce, for the present, the hope of effectuating this desirable object, or to pursue it in the manner prescribed in your letter of the 9th ultimo, so I am now unwillingly compelled to enter upon the consideration of another letter from you under date of the 1st instant, which but too strongly confirms the opinion I before entertained." Mr. Jackson, in his letter of October 23, speaking of Augereau's proclamation to the Catalonians, that had no connexion with the subjects to be discussed between the Secretary of State and himself, travels out of the way for the express purpose of reviving a calumny against the Government of the United States of being under French influence. The following are his words: "Is it not important, at such a moment, that Europe and America should be convinced, that from whatever countries honorable and manly resistance to such a spirit may have been banished, it will still be found in the Sovereign of the British nation, and in the hearts of his subjects."

When all these extracts are brought into one point of view, the meaning is clear. He knew that his letters would be published; and he was determined to impeach the administrators of the Government, before the tribunal of the people, of French influence. Those very persons on whom, a few months before his arrival into this country, the citizens of the United States had passed their judgment by electing them as their Representatives.

Mr. Jackson shows himself well qualified impudently to keep alive a charge which originated with the British Government to delude and distract the good people of this country; and I have no doubt but that he will find some of the newspaper editors and dull compilers of pamphlets prompt in lending their aid to propagate any calumny, no matter what, against the Government of the United States. Mr. Jackson's object in coming to this country was to do nothing with the Government, but to find out and to tamper with instruments of corruption.

His policy was to avoid all opportunities of honorable explanation; not to tender just reparation for injuries received, but to seize every occasion of insidiously charging the President of the United States with insincerity towards the British Government. To foment divisions among this people was his great object. I trust in God he has been egregiously mistaken. The American people are too sensible of their own dignity and rights, and too manfully disposed ever to surrender them to France, and too intelligent, from dear bought experience, of British morality and

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

justice, to look for a sanctuary of safety, in an alliance, offensive and defensive, with Great Britain.

The tribunals of justice, however limited they may be in their jurisdiction, have the power of punishing for contempts; and it is to be lamented that the Chief Magistrate of the United States, for as gross indecorum and insolence in the British Minister as could be well practised or devised, should be censured for maintaining with a proper spirit the dignity of his station. I have said enough on this point to prove that Mr. Jackson intended, by his manner of conducting the correspondence with the Secretary of State, to treat with indignity and insolence the Government of the United States; and that his style, in opening and continuing the correspondence, was in conformity neither to the rules which preserve decorum and respect in private life, nor in anywise adapted to inspire confidence, or promote a good understanding between the two countries.

I shall now, sir, undertake to prove that the President of the United States, however well disposed he might be, to meet any fair proposition on the part of the British Government, was prevented from indulging his wishes, on the ground on which he was placed by the conduct of Mr. Jackson, and from serious and well founded objections to his powers and instructions.

As the United States had received, and were receiving great injuries and injustice from the acts of the British Government, in impressments of their seamen, in the attack on the Chesapeake, a national ship, in illegal captures and condemnations of vessels and cargoes, and in the disavowal of a solemn arrangement, it was natural to look to the new mission for explanations of past conduct and for redress of wrongs. All expectations on these heads for redress, how reasonably soever they were cherished, were not to be gratified. As to explanations for the non-execution of Mr. Erskine's provisional agreement, the delay which had taken place, and the mode of doing it, evinced a disposition in the British Ministry, utterly regardless of the sensibility of this nation, and of respect for this Government. In the affair of the Chesapeake, reparation was offered, but clogged with such conditions, that the Government would have dishonored itself by acceding to them. They would not be accepted without a wilful and palpable violation and abandonment of rights, derived from the Constitution and the laws of the land.

With respect to the other classes of outrages and injuries, Mr. Jackson declared that he had no powers which authorized him to bring them even into discussion. That his powers and instructions had a prospective, but no retrospective relation; that he had no propositions to make, but was ready to receive such as the President should think proper to communicate through the Secretary of State, and eventually to decide on them according to the tenor of his instructions. Could, sir, disrespect assume an aspect more forbidding? Could a more pointed disregard to, and contempt for, the rights of this nation be

offered, than for the offending Power to preserve silence on subjects of such importance and interest, and yet propose to open a negotiation which should relate to the future concerns of the two countries?

Such propositions could have had no weight with the President, as a denial of justice for past wrongs could not certainly inspire the injured party with a confidence that such propositions originated either in magnanimity, or in principles of fair and honest negotiation. They are invariably the precursors of a temporizing policy and of finished duplicity.

To entice the Executive of the United States into such a negotiation and arrangement, was a masterpiece of cunning. Its ostensible object was to adjust the future relations between the two countries; its real one, to destroy the claims of the United States on the British Government to reparation for past violations of neutral rights. I shall attempt to show how this was to be accomplished.

Two considerations, no doubt, had their influence with the British Ministry; the first was to obtain, through the artifice of negotiation, an acknowledgment of the right to issue the Orders in Council of January and November, 1807, including those also of prior dates; this object was to be effected by prevailing on the President to give the go-by to an adjustment of injuries inflicted under the sanction of their authority, and to conclude an arrangement which should relate to future intercourse; which arrangement, if acceded to, while the Orders of Council should be in force, would ever afterwards be insisted on as an acknowledgment of their legality. The second was, that if the negotiation should eventuate in an arrangement, chicanery—for European Governments do not disdain to make it an auxiliary—would soon find in such an arrangement either an implied or express release of all obligations on the British Government to make reparation for any injury or wrong received from the execution of those orders. I might, sir, also add other considerations, but as I have already stated them in the first part of my argument, I forbear to repeat them. The penetrating eye of the President saw instantly through the diplomatic artifice; and the Secretary of State, in a style that evinced his clearness of perception, convinced Mr. Jackson that the tricks of negotiation, however specious, had lost their magic power.

The tendency of his projects was seen and avoided. The Secretary of State, in the following extracts from his letter of the 19th of October, 1809, addressed to Mr. Jackson, proves my assertions. He says:

"Had none of those obstacles presented themselves to the course corresponding with the sentiments and dispositions of the President, I should have felt great pleasure in giving you formal assurances of his readiness to execute the conditional authority with which he is invested for restoring in its full extent, as far as it may depend on the United States, the commercial intercourse of the two countries, and that he would, moreover, be disposed to extend the experiment of a

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

friendly negotiation to every point of difference and mutual interest between them.

"If, indeed, in the event of a successful termination of what relates to the case of the Chesapeake, it be thought that a removal of the difficulties arising from the Orders in Council might be facilitated, by comprehending them in a general negotiation, and the operation of the orders can in the meantime be suspended, the door might be considered as immediately open to that course of proceeding. To such a suspension no reasonable objection can be made, if, as you have stated, the Orders in Council, as now modified, leave the trade of the United States nearly as great as it would be without the existence of such orders, so long as France and the other Powers shall continue their decrees, inasmuch as a discontinuance of their decrees by those Powers confessedly requires an immediate and entire revocation of the Orders in Council. That a suspension of the orders with a view to their being brought into a general negotiation, is more reasonable than a temporary submission to their authority by the United States with that view, is obvious from the reflection, that such a submission would necessarily involve a relinquishment of the principle which they have steadfastly asserted; whereas a discontinuance of the Orders in Council, in the present actual state of things, would not be incompatible with the principle on which they were originally founded."

On this point I shall forbear to say anything more, except to recall to notice some facts relating to past transactions between the United States and Great Britain. By the seventh article of the definitive Treaty of Peace of 1783, the British Government stipulated not to take away "any negroes or other property of the American inhabitants." Yet we find that, when the British army evacuated New York, and embarked for Great Britain, that stipulation was disregarded. The violation of a solemn treaty gave the injured party a right to demand reparation; the demand was urged and evaded.

Since the ratification of Mr. Jay's Treaty, in 1795, though the stipulation in the seventh article of the Treaty of 1783, as above stated, remained as was supposed untouched; yet it has been, and will be, contended whenever a discussion shall take place on that subject, that the United States have, by implication, lost all right to reparation. Let facts and experience admonish us. If we do not keep closely connected past transactions with such as are daily occurring, it will not require prophetic inspiration to inform us, that the chicanery of the British Government will be honored with another triumph in the prostration of American rights.

Having shown that Mr. Jackson's manner of conducting the correspondence with the Secretary of State was indecorous and insulting; having likewise shown, that from his own acknowledgment, he had no powers to redress past violations of rights; and that his mission, in whatever point of view it can be exhibited, was insidious, I will now proceed to show that Mr. Jackson gave the lie, open and direct, to the President of the United States, and likewise to the Secretary of State. I regret, sir, that I am compelled to speak of things as they are. I am not to be in-

formed that some gentlemen fancy that they see Mr. Jackson's conduct, manner, and views, in a different light. The gentleman from Connecticut (Mr. DANA) saw the danger of handling this subject too rashly, the sharp, repellent points of which were to him visible; he touched them not. He retired from a contest which promised no great acquisition of fame. He very prudently took a wider range; in the amplitude of space, like a good pilot, he looked for least danger. Mr. Jackson, in attempting to prove that the President was fully acquainted with Mr. Canning's despatch of the 23d of January, 1809, which formed but one part of the instructions to Mr. Erskine, disregarded those forms of respect towards the Chief Magistrate of the United States that even rude and savage nations exact, and cause to be observed in honor of their chiefs. Mr. Jackson was early informed that the President had not seen the despatch to which he alluded, nor were such instructions known to form a part of those which Mr. Erskine had received, until a copy of the instructions were communicated by Mr. Pinkney, our Minister at the Court of St. James, some time after the disavowal had taken place. Notwithstanding this information, Mr. Jackson changed his ground, and insisted that, if the despatch alluded to had not been seen by the President, the substance of it had been given to him by Mr. Erskine; thence concluding that, under such circumstances, the President could not look for the execution of the provisional arrangement by the British Government. It is true that Mr. Erskine, in conversation with the Secretary of State, did state certain propositions verbally, which since the disavowal of the arrangement, are found to be in substance the same with those contained in the despatch of the 23d of January, but which Mr. Erskine never informed the Secretary of State were derived from his instructions; all which will evidently appear in the extract from his letter of the 14th August last, which I have read to the House, in arguing on the competency of Mr. Erskine's powers.

The Secretary of State knew, and it was no secret, that the British Ministry had long endeavored to induce this Government to surrender during the war the colonial trade, and he considered the renewal of this proposition by Mr. Erskine as a zealous effort on his part to try again the disposition of this Government on that point; finding himself checked at the outset, he took other ground, which being more compatible with the views of the President, served as the basis of the arrangement of April last. This, sir, is a true statement of facts, which Mr. Erskine's correspondence will prove to be just.

Although Mr. Jackson was repeatedly informed of the facts as stated, he continued to urge the same thing in such a manner as to compel the President, by continuing the correspondence, to acknowledge the truth of his assertions, and to stand self-condemned, as having, in the face of the world, deliberately maintained a falsehood. The President of the United States, conscious of adhering to fairness and honesty in all his nego-

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

tions with the British Government; having in his possession Mr. Erskine's letters, establishing beyond a doubt his title to that character, he determined to put a period to the repetition of a language implying a knowledge on the part of this Government, that the instructions of Mr. Erskine did not authorize him to conclude the arrangement of April last. In consequence of this determination, the Secretary of State, in a letter of the 1st of November, 1809, addressed to Mr. Jackson, says:

"After the explicit and peremptory asseveration, that this Government had no such knowledge, and that with such a knowledge no such arrangement would have been entered into, the view which you have again presented of the subject, makes it my duty to apprise you that such insinuations are inadmissible in the intercourse of a foreign Minister with a Government that understands what it owes to itself."

This intimation to Mr. Jackson had no effect. In the conclusion of his letter of the 14th of November, he again, in a strain not to be misunderstood, nor surpassed in rudeness, says:

"You will find, that in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and least of all should I think of uttering, an insinuation where I was unable to substantiate a fact. To facts, as I have become acquainted with them, I have scrupulously adhered; and, in so doing, I must continue, whenever the good faith of his Majesty's Government is called in question, to vindicate its honor and dignity, in the manner that appears to me best calculated for that purpose."

The President had, after this letter, no choice left him but to submit to the calumnies of the British Minister; to be told that no credit was due to his asseverations, or to sustain with becoming dignity, by terminating the mission of Mr. Jackson, the reputation of the American Republic.

In dismissing Mr. Jackson, I am persuaded, from my view of the whole affair, that the President did nothing more than he was imperiously bound to do. A Government, sir, that knows not how to respect itself, cannot be respected. Timidity never fails to invite aggressions, and to subject the nation that acts according to its suggestions to humiliation and disgrace.

As the gentleman from Connecticut (Mr. PERRY) has endeavored to show, that no similarity whatever between the case of De Palm and the present can be traced, I will ask your indulgence while I state the case of De Palm. In the year 1727, George the First, in his speech to Parliament, among other charges against the Emperor of Germany, assured them of the truth of this, that His Imperial Majesty had concluded a treaty with Spain, in which was a secret article to place the Pretender on the throne of Great Britain. His Imperial Majesty took umbrage at the King's Speech, and ordered De Palm the imperial resident to present a remonstrance to the British Court. The remonstrance was framed in terms unusually bold and pointed, charging the King "with calumnious misrepresentations, and haz-

arding assertions void of foundation." De Palm published this memorial.

Belsham, the British historian, says:

"The allegation contained in this letter and memorial, seem but too well founded; but the intemperate language of these papers gave high and just offence; and Mr. Shippen, Mr. Hungerford, Sir William Wyndham, and all the leaders of opposition in Parliament warmly concurred in the Address to the throne on this occasion, which passed the House without a dissentient vote, and De Palm was required forthwith to depart out of the kingdom."

My object is not to trace similitude of features in the cases of De Palm and of Mr. Jackson, the British Minister. No two faces are alike; no cases are uniform and exact in all their circumstances, but trifling shades of differences do not preclude a dependence on the same principle as a basis. I have a more important object in view than such a comparison; it is to inculcate this doctrine which the case of De Palm illuminates; that the first step to national greatness is harmony and concert in the Government, particularly so when a foreign Power is the opponent. The interposition of the authority and influence of Parliament in support of the Executive Magistrate against the Imperial Resident, De Palm, was proper, disinterested, and patriotic; and the sacrifice of party feelings by the opposition to the welfare of their country, an instance of magnanimity and self-command, not unworthy of the emulation of the American patriots.

The gentleman from Connecticut, (Mr. DANA,) in the range he took, adverted to the following passage in the letter of the Secretary of State to Mr. Pickney—"Another ground on which protection was asked for, is the supposed tendency of the language of our newspapers to excite popular violence on Mr. Jackson's person. Had he been longer and better acquainted with the habits and spirit of the American people, he would probably never have entertained an apprehension of that sort." The gentleman then asked, to what laws did the Secretary allude? In what courts were redress to be sought? Were the Federal courts to be thrown open and prosecutions to be instituted for libels under the common law? As this is not the first time that questions of this sort have come from that quarter, it becomes necessary to give them a short answer. It is now, sir, as it has always been, the doctrine of Republicans, that religious freedom and the liberty of the press, are subjects on which Congress cannot constitutionally legislate, if the following amendment to the Constitution has any meaning.—Article 1st. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press." And also, that the Federal courts cannot derive any jurisdiction from the common law, authorizing them to take cognizance of criminal offences. If Congress can by law abridge the freedom of the press, Congress can also by law establish a religion; to do either of which I contend no Constitutional power is given. From this view of the subject, I am con-

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

vinced that the Secretary of State could allude to no other laws than to State laws. The liberty of the people is, thank God, under the guardianship of State sovereignty; and I trust the Republicans will never, while they are influenced by correct principles, usurp State powers. Mr. Jackson has a resort, if he pleases, to tribunals of justice as independent as these United States, composed of judges who are in no respect inferior to those of the Federal courts, in talents, abilities, or worth. No complaint can therefore be made either by His Britannic Majesty, or Mr. Jackson, his Minister, since the same tribunals of justice that protect the reputation and honor of the President and every other American citizen against the abuses of the press, are also open to him. The Constitution and laws of the United States are in other cases fully competent to his protection.

I shall now sir, take the liberty of directing my attention to some observations, which fell from a gentleman from the State of New York, (Mr. GARDENIER,) whom I am glad to see in his place. That honorable gentleman has told us that the intercourse with Great Britain would not be abandoned by the Northern farmers, as a commercial connexion with that country affords a vent for their surplus produce; and also that the interest of his constituents essentially depended on its renewal. I will undertake to convince that gentleman, that he ought to occupy other ground, by showing that a trade carried on with Great Britain alone would leave on the farmers' hands three-fourths of their surplus produce—a fact not very consoling to the farmers and planters of the United States. [Mr. GARDENIER rose to correct a misstatement into which Mr. N. had fallen. Mr. G. said if Mr. N. had added that the Northern States would not abandon their commerce with Great Britain for light and trivial causes, he would be correct.] I am willing, sir, to take the argument of the gentleman with this limitation, that the commercial intercourse with Great Britain should not be surrendered or abandoned for light and trivial causes. I have said enough on the conduct of Great Britain towards the United States, to show whether their complaints arise from, and whether the acts of this Government are founded on light and trivial causes. The view which I shall take of this subject and the facts connected with it, notwithstanding the explanation, will still be the same. Permit me, sir, to express my regret, that arguments on great national subjects, instead of being general and comprehensive, should be narrowed down and confined to local considerations. It is certainly improper and impolitic to cut the United States up into districts and slips, and to legislate for each division. This chequered patch-work sort of legislation comports not with the design of this Government, nor with the interest of this nation. Correct and enlightened policy inculcates liberal and enlarged views—sacrifices of local and minor interest to the promotion of the general good, and particularly this truism: that the health and vigor of the members are derived from the sanity and vigor of the body. My object is to show that

our trade to Great Britain is far from being lucrative, that we are not dependent on her for our commercial prosperity, and that a trade confined to her ports solely for a short space of time, would have a paralyzing effect on agriculture. I shall arrive at my object by a plain statement of facts. The following extract is from a report of the Secretary of the Treasury to the House of Representatives in 1806—it will support my assertion. The report says: "On the exports to the dominions of Great Britain in Europe, it may be observed, that the tobacco is supposed to exceed the amount wanted for their own consumption; that as the laws of Great Britain do not permit for home consumption the importation of the greater part of the articles of foreign merchandise in American vessels, those which appear to have been shipped from the United States have generally been either cleared for England and a market, or when landed, warehoused for re-exportation; and that flour and wheat, which are not a permanent article of exportation to Great Britain, constituted more than two-thirds of the value of the provisions exported to that country in 1802 and 1803. Although the quantity of cotton exported to Great Britain is increasing, and its value amounted, in 1804, to near six millions two hundred thousand dollars; yet the total value of the exports to that country did not in that year, exceed, in articles both of domestic and foreign produce, thirteen millions two hundred thousand dollars, while the importation amounted to twenty-seven millions six hundred thousand dollars, making a balance in favor of Great Britain of fourteen millions two hundred thousand dollars. As this balance must necessarily be paid out of the proceeds of the exports of the United States to other countries, it follows that on the value of those exports depends the ability to pay for British manufactures to that extent; and that the quantity imported for home consumption or re-exportation must be affected by every obstruction to the commerce of the United States with other countries."

In the year 1803, the value of the exports of the United States in domestic produce to all parts of the world, amounted to more than forty-two millions of dollars, and, in 1807, to the value of forty-nine millions of dollars.

The exports of the United States, to all parts of the world in foreign produce, in 1804, amounted in value to thirty-six millions of dollars, and, in 1807, to forty-nine millions of dollars.

Thus, it appears, by regular calculations, that Great Britain does not take of our domestic produce, in value, quite thirteen millions of dollars, and of foreign produce not more than two millions two hundred and sixty thousand dollars. Hence, the following facts are evident, to wit: that if the United States were confined in their trade solely to Great Britain, domestic produce to the value of thirty odd millions of dollars would remain on the hands of the farmers and planters for want of a market; and between thirty-five and fifty-six millions of dollars in foreign produce would remain a dead capital in the country

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

A consequence not generally taken into calculation would inevitably result from a trade confined to Great Britain alone. Such is the spirit of speculation, that it must be active. Shipments to Great Britain, in such a state of things, would be made; the markets would become glutted; the price of produce would sink below first cost, and bankruptcies would ensue, the effects of which would reach the peaceful mansions of the farmer and mechanic. I shall say nothing on the head of making Great Britain the depot of the produce of this country, to be by her transhipped to other countries; the Government of the United States revolts at such a pretension. It will never submit to wear the badge of colonial vassalage.

I will now show that the Northern States are not so much interested as the Middle and Southern States are, in the continuance of friendly intercourse with Great Britain.

The exports to Great Britain, in domestic produce, consist of the following articles:

| | | |
|--|-----------|-------------|
| Cotton | - - - - - | \$5,000,000 |
| Tobacco | - - - - - | 3,220,000 |
| Provisions | - - - - - | 2,160,000 |
| Lumber, naval stores, and potashes | - - - - - | 1,570,000 |
| All other articles of domestic produce | - - - - - | 900,000 |

From this statement, if attentively considered, it will appear that the Middle and Southern States supply Great Britain with domestic produce to the value of eleven millions seven hundred and seventeen thousand dollars, and the New England States and State of New York with not more than amounts to one million seven hundred and twelve thousand dollars.

This last-mentioned sum, when divided into portions between the New England States and State of New York, will not very logically and arithmetically prove that the Northern States are more interested than the Middle and Southern States in a commercial intercourse with Great Britain.

It is, sir, far from my intention to derogate in the least from the commercial importance of the Northern States; nor is it my intention to make invidious comparisons. I have been reluctantly compelled to sift, to analyze the dogmas which have been so often pronounced with confidence on this floor, and to vindicate the character of the State I have the honor in part to represent, from the charge of being hostile to commerce, and particularly with Great Britain. I trust, sir, that I have shown that Virginia as a producing State is interested in commerce equally with her sister States; but I am satisfied that she will be among the last to surrender one national right to obtain a miserable pittance of commerce.

Much has been said, sir, on the subject of revenue, and many have deplored, in a manner not to be mistaken, the diminution of the same. It becomes important to understand the state of the Treasury, and the causes which have contributed to lessen the receipts. Every man who considers the situation of this country in a sober and temperate manner, must perceive that the fiscal operations of the United States have not been injured by any act of the Government. As most of

our revenue is derived from commerce, any depression which the latter suffers must have a tendency to decrease the former. Our commerce with foreign nations is independent of the control of this Government. Each nation has the right and the power of executing the same within its dominions. A revenue which depends on commerce must necessarily be uncertain and capricious. It may be great to-day—to-morrow it may be less by half than on the preceding day. The arbitrary edicts of Government are to commerce what the state of the weather is to mercury in the tube of a thermometer; it rises and falls from the influence of causes over which there can be no control. The war between Great Britain and France is of a character that has no parallel in the history of the world. The law of nations in all former wars afforded some sort of protection to neutrals, but now it is a dead letter. Great Britain and France, by orders and decrees, prostrate, in the twinkling of an eye, the wise and venerable monuments of ages. In their rage against each other, and from the instigation of envy and jealousy at the prosperity of others, they respect no law nor rights. In the plenitude of power, their will is the law. From the convulsed state of Europe, the United States just rising from the confusion and depression of a long revolutionary contest for independence, had and still have a difficult part to act. Their policy has been to avoid being parties to a contest which promised no advantage. And it will require all the sagacity of the historian, who records the events of these times, to determine whether hostilities or alliances have been most fatal to the nation whose misfortune it has been to take sides. Suffice it to say that the commerce of the United States has suffered much from the orders and decrees of the belligerents.

Can it, therefore, be a matter of wonder that the revenue should experience some diminution, which depended, in times like these, on the prosperity of commerce? No little consolation is, however, derived from knowing that though our embarrassments have been great, the revenue has been such, as, by able management, to support the Government without resorting to taxes, and to enable the Republicans to pay large debts contracted in times of Federal prosperity.

If a loan of four millions should be required, it will be borrowed to pay a creditor. No new debt is thereby created.

Although a loan to that amount should be made, yet the national debt is diminishing, inasmuch as an appropriation to the amount of eight millions of dollars is made for the payment of the public debt.

As a great deal has been said about the revenue, it is necessary that the observations should be fairly met. From some remarks and hints, a supposition may be entertained that the present administrators of the Government have been lavish of the public treasure—that they have been prodigal. To rebut such insinuations, let facts be stated. On vague assertions no reliance can be had; a comparative view of the Federal and Re-

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

publican Administrations will show which ought to have most merit for husbanding the finances, and for extending commerce :

Federal Administration. *Republican Administration commenced the 4th of March, 1801.*

National debt on the 5th of March, 1801, eighty millions of dollars.

Money in the Treasury on the 1st day of April, 1801, one million seven hundred and ninety-four thousand dollars.

Loan by Mr. Adams, five millions at 3 per cent.

Land and house tax.

Tax on stills.

Stamp tax.

Alien and sedition laws.

Duties on merchandise imported, and on tonnage in 1800, amounted to nine million eighty thousand nine hundred and thirty-two dollars.

Tonnage, in 1800, to nine hundred and seventy-two thousand tons.

Thirty-nine millions of dollars paid from the first of April, 1801, to the present time, in extinguishment of the national debt; this payment includes the loan of five millions made by Mr. Adams at 8 per cent., and exclusive of many millions paid for interest on the national debt.

No loans made since the commencement of the Republican Administration.

All taxes repealed.

No alien and sedition laws.

Revenue, in 1807, arising from merchandise imported and from tonnage, about sixteen million of dollars.

Tonnage, in 1808, one million two hundred and twenty-seven thousand.

The purchase of Louisiana has quieted the minds of our Western citizens, placed the Indians within our power, and given to the Government a fund in vacant lands, worth at a low calculation three hundred million of dollars.

Indian title extinguished to many millions of acres on the eastern side of the Mississippi.

The credit of the nation is such as to command whatever it may require.

The resolution from the Senate is said to have a war aspect. If it has, I am too blind to see it; but, for argument sake, let us suppose it takes strong ground. Can we, sir, from the conduct of the British Minister, do less? When the Government is insulted by the Minister of a foreign Power, we owe it to our constituents, and to ourselves, to maintain its rights and dignity. To do less would be, in my opinion, to tarnish, if not to surrender, that independence so honorably achieved by the valor of our ancestors. No man in this nation has a greater abhorrence to war and its demoralizing tendencies, than I. I am unwilling to draw the sword, unless imperious necessity urges an appeal to it as indispensable. But, will the fear of war put it at a distance from us? Is fear the ægis that is to shield this nation from it? History informs us that suppliant nations have felt most severely its scourge. No nation that

ever purchased a peace, but gave a premium for war. To look danger in the face, is to disarm it. Did our ancestors, of glorious memory, obtain independence by half-way measures and indecision? No; they resolved to be free, and became free.

They determined not to submit to the power of the British Parliament, to tax them. They resisted the insignificant, contemptible tax, not because it was oppressive, but because the payment of one cent would establish the right of the British Parliament to tax them. Without a Government, without money, without a Treasury, without credit, without arms—in short, without anything necessary to carry on war except union and stout hearts; they refused to pay the tea tax, and in defence of those rights which nature's God had given them, they commenced the contest. In a righteous cause they had nothing to fear.

That God who led the persecuted through the fiery furnace untouched and unhurt, led them also through Revolutionary horrors and carnage, and, on the ruins of their oppressors, erected the standard of independence. Shall we, sir, under a Government of our own choice, and with means not inferior to those of any nation whatever—shall we, in this temple dedicated to liberty and independence, strike the consecrated standard? I trust in God we shall not. If necessary, I trust we shall, heart and hand, unite to carry it again victorious through the ranks of our enemies, and erect it again on their ruins.

As an observation has been made tending to show that opposition to the administration of the Government is not inconsistent with an enlightened zeal for liberty, or attachment to the Constitution, it becomes necessary to understand the extent and force of the observation before we give to it the importance of a political maxim. If no more be meant than that a Representative of the people is bound to give every act of the other branches of Government a dispassionate investigation, and to withhold his assent from measures which he is conscientiously convinced, cannot promote the public good, I accord to the justness of it. The sovereign power of the nation being intrusted and confided to our exercise, and to that of the other co-ordinate branches of Government, we are solemnly called upon to exert our energies, mental and physical, for the desirable purpose of deriving from the Constitution every good that it is susceptible of bestowing. We have pledged ourselves to the citizens of United America so to act; we are bound to fulfil the expectations of the people; and to transmit to posterity a freehold patrimony of liberty and independence.

These blessings are now within our reach; they will never descend to posterity, if we permit the bane, the poison of all free Governments, the spirit of faction, to assail the constituted authorities; it is a friction that will, by a slow and ceaseless action, wear away and ultimately destroy the springs that give to Republics an irresistible force. I am not, sir, the advocate, nor will I be, of any measure which shall not derive its origin from a Constitutional or correct political princi-

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

ple. I will, to the best of my weak judgment, pursue that line of conduct which appears just and proper; which, while it teaches me that I ought to respect myself, informs me that respect is also due to those who are honored with the confidence of the nation, and are made the depositaries of its power. No measure should be consigned, from the prevalence of party spirit or feelings, either to blind approbation or to blind reprobation. Personal considerations should give place to sentiments of patriotism. The ambition of ministering as the high priest at the altar of a party should be merged in that elevated enthusiasm that would make us worshippers in the true faith at the altar of our country. The constituted authorities would then, each in its appropriate sphere, perform its Constitutional functions; accomplishing the end of its creation, in feeling and obeying the genial influence of the people, the centre of the system. The despots of the world would tremble at the power of the nation when that power would be wielded by the nation. If the best interest of this nation should not be properly secured and maintained as it ought, I trust in God that the citizens of United America will awaken, to behold the dangers that surround them; that they will trace effects to their cause; that they will ascend to the fountains from which all their misfortunes flow; that they will, at a crisis like this, rise in the majesty of their strength, and communicate to the national arm the power of the nation.

Mr. STANLEY said he did not flatter himself he could add anything to the information which the House already possessed on this subject. Yet, as a measure was about to be adopted, which without the possibility of yielding any advantage, would, in his opinion, fix a stain on the national character, and put at hazard the peace and prosperity of the country, he felt impelled by the imperious call of duty, to raise his feeble voice against it. Permit me here, said Mr. S., to express the surprise and regret with which I have heard observations from those who support the resolution, which, having no connexion with the resolution itself, are calculated, if not intended, to excite the passions of the House or of the people; to furorize the public mind; to mislead our judgments in deciding the question, and to obtain a result rather from passion than reason. I allude to the repeated recital of British outrages, the bombardment of Copenhagen, and the attack on Constantinople. A calm discussion of the question itself, would probably lead to as correct a decision, and be not less honorable to the American Congress. The danger of foreign influence has been mentioned to us, by way of caution, I presume. A solicitude on this point can be but commendable, though I hope unnecessary. It may be the fate of this country to be cursed with men whose ill-directed ambition, and predominant selfish views, lead them to support the interest and the designs of foreign nations, though adverse to the interests and honor of their own. If such there be, let them be marked as objects of suspicion, scorn, and contempt.

11th CON. 2d SESS.—36

It has also been the fate of other countries, and may be the misfortune of this, to possess in its bosom, and to cherish in its confidence, men, who from an equally base and corrupt self-love and ill-directed ambition, become supple courtiers, political sunflowers, cringing demagogues; who, worshipping the idol power, whether in the hands of a military commander, a protector, or a consul, tender an implicit obedience and united support to every measure which emanates from the Executive, the source of office and profit. Such men bring upon a country the curses of undue domestic influence. Not to know and not to fear the dangers both of foreign and domestic influence, is to close our eyes on the light of history, and to disregard the testimony of ages. The States of Greece, as the gentleman from Virginia (Mr. ERREB) reminds us, fell from foreign influence; the unhappy Kingdom of Spain at this moment groans and bleeds from the same cause. And, sir, from domestic influence, Rome had her Cæsar, England her Cromwell, and France now drags the chains of Bonaparte. Should it ever become the settled doctrine in this country, that the opinions and the measures of the Executive are entitled to our prompt acquiescence and blind support; that, like the devoted soldier, a mere military machine, we are not to pause over a vote; that free discussion of the merits of the Executive shall authorize suspicion of the purity of the citizen; the time will be fast hastening when a throne shall be erected upon the ruins of the Constitution of the United States, and the name of America be added to the list of those Republics which have "risen like the rocket, and fallen like the stick." Whether either of these parties exist in this country, I need not at this time inquire; no circumstance could render such an inquiry in this place other than unpleasant. I have suggested the possibility of their existence, and their evils, with a view equally pure, I hope, with that of those who have before alluded to them, and to excite a caution which well merits the attention of the American people.

Associated in this House with gentlemen, all of whom I am to presume are actuated by the same love of country; who alike feel the obligations of honor, conscience, regard to the Constitution and responsibility to our constituents—I cannot but believe they act on this occasion with motives as pure as my own. Yet, sir, feeling myself bound by these high sanctions to pursue the course pointed out by my own judgment, and the dictates of my own conscience, I am compelled to declare, that I disapprove the conduct of the Administration in the affair with Mr. Jackson, and that I am decidedly opposed to the resolution before us.

From the view I have taken of the correspondence between Mr. Smith and Mr. Jackson, my mind is satisfied—

That the letters of Mr. Jackson do not contain the insult to our Administration which is imputed to them by the resolution. That, if they did, the Congress of the United States are not required either by duty or policy to interfere in the busi-

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

ness—and that if they will interfere, the resolution under consideration is improper. On each of these points I will submit a few observations.

In regard to the insult said to be contained in Mr. Jackson's letters, my remarks shall be brief, with no other reference to the letters already so often repeated, as to have become "dull as a tale twice told," than I may conceive necessary to be intelligible. The offensive idea "that the Executive Government of the United States had a knowledge that the arrangement lately made by Mr. Erskine in behalf of his Government with the Government of the United States, was entered into without competent powers on the part of Mr. Erskine for that purpose," is said in the resolution to be conveyed in Mr. Jackson's letter of the 23d of October, and to be repeated in that of the 4th of November. Yet, as if it was on all hands admitted that no such idea could be found in these letters, all who have most anxiously desired to find it, have endeavored to establish it by recurring to Mr. Jackson's letter of the 11th of October, and there point us to that part of the letter, where Mr. Jackson in reply to Mr. Smith's declaration, that an explanation was expected of the grounds of the disavowal by His Britannic Majesty of the arrangement made between Mr. Smith and Mr. Erskine, informs Mr. Smith, that he had seen with pleasure the forbearance of Mr. Smith, to complain of this disavowal, "inasmuch as you could not but have thought it unreasonable to complain of the disavowal of an act done under such circumstances as could only lead to the consequences that have actually followed." He adds, "It was not known when I left England whether Mr. Erskine had, according to the liberty allowed him, communicated to you *in extenso* his original instructions; it now appears that he did not. But in reverting to his official correspondence, and particularly to a despatch addressed on the 20th of April to His Majesty's Secretary of State for Foreign Affairs, I find that he there states, that he submitted to your consideration the three conditions specified in those instructions, as the groundwork of an arrangement which, according to information received from this country, it was thought in England might be made, with a prospect of great mutual advantage. Mr. Erskine then reports, *verbatim et seriatim*, your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you that these latter were an equivalent for the original conditions; but the very act of substitution evidently shows that those original conditions were in fact very explicitly communicated to you, and by you of course laid before the President for his consideration. I need hardly add, that the difference between these conditions, and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation; nor need I draw the conclusion, which I consider as admitted by all absence of complaint on the part of the Amer-

ican Government, viz: that under such circumstances His Majesty had an undoubted right to disavow the act of his Minister."

As the offensive idea is alleged to be an allusion to the circumstances under which the arrangement with Mr. Erskine was concluded, which justified the King in disavowing it; intimated to be known to our Administration at the date of this letter; it is necessary to search, from the evidence before us, what those circumstances were upon which the King justified his disavowal; these found, we shall be at no loss to fix Mr. Jackson's allusion, and then to inquire whether these circumstances, thus alluded to, were in fact known to our Administration. It appears from the documents before us, that the King's Order in Council of the 24th of May, 1809, announcing the provisional agreement concluded by Mr. Erskine and the disavowal of it, assigns as the sole ground of the disavowal, that the said agreement "was not such as was authorized by His Majesty's instructions." And Mr. Pinkney, on the 28th of May, informs Mr. Smith, that the British Minister, Mr. Canning, had in their interview on the 25th of May declared "that the British Minister (Mr. Erskine) had acted in his late negotiation and engagements with you, not only without authority, but in direct opposition to the most precise instructions;" that these facts were communicated by Mr. Pinkney, and known to our Administration before the arrival of Mr. Jackson, appears from the correspondence between Mr. Smith and Mr. Erskine in July and August. Mr. Jackson also, in his letter of the 11th of October, says that his Government "with frankness, promptitude, and a most scrupulous regard to national honor, gave notice to the American Minister in London of the disavowal of the motives of it, and of the precautions spontaneously taken by His Majesty to prevent any loss or injury accruing to the citizens of the United States from an agreement however unauthorized, made in His Majesty's name." And in his letter to Mr. Smith, 23d of October, explicitly declares "His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it." And to dispense with a recital of each particular in which the instructions were disregarded, Mr. Jackson adds, "These instructions I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were at the time in substance made known to you; no stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement."

We thus find the British Government on every occasion, and through every agent, assigning the violation of instructions, and the want of authority in Mr. Erskine to conclude the agreement, as the sole ground of the disavowal, and relying on that ground, and no other, to shield them from the charge of perfidy. With this evidence before

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

us; with the admission of Mr. Jackson "that the instructions were not made known *in extenso*," with the correspondence of Mr. Smith and Mr. Erskine showing the knowledge of our Administration of the instructions to Mr. Erskine and of the grounds of the disavowal of his arrangement prior to the arrival of Mr. Jackson in the United States, does it consist with candor and good sense; is it not a palpable violation of both, so to torture the language of Mr. Jackson in his letter of the 11th of October, in allusion to the circumstances which "could only lead to the disavowal," and to the knowledge of them by our Administration, which prevented their complaints to him on his arrival as to make them convey an idea that a distinct and different ground of disavowal existed than that which his Government and himself had before repeatedly assigned; to impute to him the insinuation that the restricted authority of Mr. Erskine was known at the time of the arrangement, when he had explicitly declared that the instructions were not made known *in extenso*," and thus to fix upon him the absurdity of contradicting himself!

Such construction, and such an imputation, in my opinion, is at war with every sound rule of construction, and every honorable principle of just and fair dealing. It is worthy the observation of those gentlemen who so clearly see an insult in this letter of the 11th of October, that they have found what had escaped the jealous perspicacity of Mr. Smith, and the patient research of the draught of the resolution; since Mr. Smith, in his reply of the 19th of October, gives no intimation of anything offensive in this letter, and the resolution confines the insulting idea to the letter of the 23d of October. We come now to the letter of the 23d of October, in which, according to the resolution, is contained the "insolent and indecorous expressions, conveying the idea that the Executive Government of the United States had a knowledge that the arrangement lately made by Mr. Erskine with the Government of the United States was entered into without competent power on the part of Mr. Erskine." The offensive idea is said to be found in the following part of Mr. Jackson's letter: "I have no hesitation in informing you that His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were at the time in substance made known to you; no stronger illustration, therefore, can be given of the deviation from them which occurred than by a reference to the terms of your agreement." There is no equivocation in this language. He says the instructions were made known *in substance*—an expression which from its very terms excludes the idea of being made known in full extent; and that it is true, as Mr. J. here alleges, that the substance of

Mr. Erskine's instructions were made known, appears from Mr. Smith's letter of the 19th of October. "Certain it is that your predecessor did present for my consideration the three conditions which now appear in the printed document; that he was disposed to urge them more than the nature of two of them (both palpably inadmissible, and one of them more than merely inadmissible) could permit, and that on finding his first proposals unsuccessful, the more reasonable terms comprised in the arrangement respecting the Order in Council were adopted." And Mr. Erskine himself declared to his Government, 20th of April, as stated by Mr. Jackson to Mr. Smith, 11th of October, and not questioned by him, "that he had submitted to the consideration of Mr. Smith the three conditions specified in his instructions, as the groundwork of an arrangement," and adds the reasons which induced Mr. Smith to think "that others might be substituted in lieu of them." These expressions of Mr. Jackson are unequivocal, free from obscurity, and cover no insinuation. They assert a single fact, the existence of which is established by the letters of Mr. Smith himself. To find in them a meaning "conveying the insolent and indecorous idea that our Government knew of Mr. Erskine's restricted authority," is to give to language a signification different from that heretofore received, and to exert a strength of imagination to which I have no pretensions. But in the letter of Mr. Jackson of November 4, is said, by the resolution, to be found "the still more insolent and affronting" repetition of the same insinuation. In the conclusion of this letter Mr. J. complains, not intemperately, of the liberty Mr. Smith claimed of styling his remarks "irrelevant and improper," a freedom which I should regret to believe would be justified by our Secretary's ideas of decorum. Mr. Jackson concludes in the words which are said to contain this offensive repetition of the imaginary insult: "You will find in my correspondence with you, that I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and least of all should I think of uttering an insinuation where I was unable to substantiate a fact."

If Mr. Jackson had really uttered an unfounded insinuation, he here certainly repeats it, because he adheres to all he had before said, and retracts nothing. But if, as I believe, he had not made any insinuations, but had directly and obviously referred to facts which were either admitted or had been substantially proved, and more especially as he has not anywhere made the insinuation charged, "that our Government were acquainted with Mr. Erskine's restricted authority," the conclusion seems to be irresistible, that he could not here repeat an insinuation which he had not previously made. This paragraph obviously means that he had abstained from such an insinuation because "he was unable to substantiate the fact." Nor can I conceive how this declaration could be offensive to Mr. Smith, unless received by him as presenting a contrast to his own department,

in which case he owes his feelings to his own conscious sensibility.

Were it, however, otherwise, and if, instead of an *insinuation* so hidden that a Secretary of State only can discover it, Mr. Jackson had given a direct and unequivocal insult, the Congress of the United States are not required either by duty or policy to interfere. The Constitution has wisely created different branches of the Government, committed to each its separate cares and duties, made each independent of the other, intending thereby to secure the separate deliberation and separate responsibility of each. To attain its blessings, these valuable objects of the Constitution ought not to be defeated. To the President alone is given the power to receive Ministers and to treat with them, and as in the course of this duty he becomes personally interested in the deportment of foreign Ministers, if they demean themselves disrespectfully towards him, he is clothed with the power to break off intercourse with them at pleasure, and so far to suspend their ministerial functions. This power has been repeatedly exercised by our Presidents, as the Constitution intended it should be, upon their own responsibility. And it is the highest policy of this Government, in order to obtain the advantages of the free judgment and decision of the President, so to conduct towards him that he should learn to act without fear of the censure of Congress on the one hand, and without any hope on the other, that their countenance shall shelter his measures from scrutiny. This policy, and the strict inviolability of the Executive power in all cases of treaty, were emphatically settled in the case of Jay's Treaty, in which the President, (whose independent example deserves more respect than it has met from his successors,) standing upon his own responsibility refused to submit to the House of Representatives any papers relating to that negotiation, except the treaty itself. Yet if the plan proposed by these resolutions be adopted; if we by formal resolutions approve the conduct of the President in an affair so exclusively his own, as that of the rupture with Mr. Jackson, may we not on some future occasion, as observed by my honorable colleague, (Mr. MASON,) claim the right of censuring in matters equally within his sole and peculiar province? If, then, we are to interfere with Executive duties, not merely as sycophants, applauding his every act, but as freemen condemning what we do not approve, the inevitable consequence must be, a conflict between the Executive and Legislative Departments, in which the wounds of either can only be inflicted through the Constitution; or (an issue equally fatal) the advantages intended to be derived from separate deliberation, distinct responsibility, and mutual jealousy and watchfulness of the separate departments disappear, in a miserable complaisance of acting by previous concert, and thus propping each other before the people.

But, sir, to sanction this resolution, we have been referred to the resolutions of the British Parliament in the year 1727, in the case of De

Palm, the Imperial Minister. Sir, I conceive precedents of legislative flattery or complaisance, in other terms, professions of duty and allegiance to the Executive of this country, are not happily drawn from the records of Great Britain. I consider it dangerous, if not degrading, that a republican Congress should consider their conduct towards the President as justified by the example of correspondent humility of an English Parliament towards a King. But, independent of all these considerations, the case of De Palm has already been shown to be so entirely unlike the one before us, that I am surprised the gentleman last up (Mr. NEWTON) should have ventured again to have relied on it in support of the resolution before us. Let me again briefly notice the circumstance which distinguish De Palm's case from Mr. Jackson's: De Palm, by command of his Sovereign, the Emperor of Germany, (as he expressly declares,) in a memorial by him addressed to the King, and published to the nation, charged the King with "distorting things in his speech to their worst sense, stating others destitute of all foundation, empty, frivolous, supported by no manner of truth," with "want of sincerity in endeavoring to excite the nation," and concludes that "His Imperial Majesty had strictly enjoined him to declare these things to the King, to the Kingdom of Great Britain and to the world." In this publication we are not driven to a laborious investigation of every word to strain the imagination and torture our complaisance to find, or to acknowledge we have found an insinuation. The charge of falsehood and hypocrisy is directly made, by order of one Monarch to another. And this, too, at a period when the Sovereign thus charged, George I, was but recently seated on his throne, by a precarious and disputed title, not well-seated in the affections of his subjects, among whom the sparks of rebellion and disaffection soon appeared not to have been extinguished; charges so infamous, made and published by the Emperor's express command, could but excite alarm of increasing the disaffection of the people, encouraging the many and powerful supporters of the cause of the Pretender to the throne of his ancestors, and thus of bringing both George the First and his Parliament, as traitors, to the scaffold. Under such circumstances, well might the Parliament and King resolve to "stand by" each other, since upon mutual safety their lives and fortunes depended. Mr. Jackson made no direct charge of any improper conduct in our Government; the front of his offence is said to be an insinuation, which, if it existed, came only from himself, not from his Sovereign, and has already been sufficiently repelled by the President's demand of his recall and refusal further to communicate with him.

Still further, if it were conceded that in any case of disagreement between the President and a foreign Minister, Congress could with propriety add the weight of their anathema to the correction previously inflicted by the President, the present case does not require it, because Mr. Jackson has openly and honorably tendered an atone-

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

ment for the imagined affront. In his message by Mr. Oakley, of the 13th of November, he declares "his regret at the construction put on his correspondence; that he could not imagine that offence would be taken at it by the American Government, as most certainly none was intended on his part." We have been referred in this debate, in justification of the measure now proposed, to the course which our feelings would dictate in case of insinuations deemed affrontful in private life. Permit me to ask, what man of sensibility, what chivalrous knight who bends in devotion to the imperious voice of honor, would not in private life be satisfied with the explanation here offered?—the explicit declaration directly and respectfully made, "I regret my conduct toward you is viewed as offensive; most certainly no offence on my part was intended?" With no pretensions to knowledge on this subject, I can only say, that my feelings would in such a case be satisfied with such an apology. This apology was refused; because, it is said, Mr. J. had previously demanded his passports. The documents before us exhibit this demand. Mr. J. it seems was so far unacquainted with the American people, as to apprehend personal violence from those whose abuses were, it is true, not sparingly bestowed upon him even before his arrival, from certain presses in the United States. Passports, in diplomatic language, I understand to be a permission to leave the Kingdom, found necessary from the jealous caution existing in Europe from the situation and junction of territory, divided by imaginary lines. Mr. Jackson demanded not such passport, but for such "document, passport, or safeguard," as might protect his person and the persons of his family from violence; so the Administration understood him, and granted him, not a passport to leave the United States, but "a certificate of his public character." Thus, sir, on this unsubstantial pretext, is rested the rejection of this frank apology by the Administration; and we, as if fatally bent on discord, are, without necessity in my opinion, about to follow their injudicious example.

But, sir, said Mr. STANLEY, waiving for the present every other objection, I disapprove the resolution on account of the improper language in which it is couched, and from an apprehension of the consequences to which it may lead. If it be determined that the miserable system of *words* is to be continued, that we are still longer to rely on *resolutions* to support the national interests, and retrieve the national character, we should at least remember the respect a nation owes to itself, that the language of reproach may be so used as to degrade those who adopt it, no less than those to whom it is applied; as a gentleman who should stoop to a gutter to attack an enemy, could not expect to rise without having partaken of the soil which he had scattered. We charge a public Minister, the accredited representative of the British Empire, with "indecorum and insolence;" with "the crime of direct and aggravated affront, of insidious attempts, and of using false and fallacious disguises." It has been said

of a throne, and ought, I should hope, to be equally applicable to the representatives of a Republic, "that every ray which beams from it should bear the character of purity, nobleness, and grandeur." Is the language of this resolution that of "purity, nobleness, and grandeur?" On the contrary, intemperate, harsh, and opprobrious, does it not violate those very principles of decorum of which we profess to be the champions, and in thus correcting Mr. Jackson's offence of indecorum not only commit ourselves, but descend to hectoring as well as abusing? The reply of Scipio to the Romans on an occasion of this kind, presents an example worthy of our imitation. The Carthagenians having abused the sanctity of the character of the Roman Ambassadors, their Ministers were brought before Scipio, and he was asked, what return should punish the perfidy of the Carthagenians? His reply, worthy a Roman, worthy an American, was, "do not do yourselves that which you condemn in the Carthagenians." If Mr. Jackson has been guilty of using insolent and indecorous language, let us not degrade ourselves by committing the same offence.

It is worthy of observation that upon former occasions of differences between our Executive and foreign Ministers, no such course as that now proposed has been adopted. Genet, the Minister of the French Directory, violated our rights of sovereignty no less than the principles of decorum. He issued commissions to raise troops within our territory, to be employed against a nation with whom we were at peace. He appealed from the decision of WASHINGTON to the people. In an official letter he accused the Secretary of State (Jefferson) with the despicable duplicity of "holding a language official and a language confidential." His recall was requested, and he was recalled. In the case of Yrujo, the Spanish Minister, his deportment, insolent and affrontful, gave offence to the late President. He was simply requested to be recalled. On these occasions, where the offence was not, as in the present, a doubtful "intimation," an equivocal "insinuation," but a direct and outrageous injury and affront, no means were used to excite the passions of this people, or to wound the feelings of the nations whose representatives had offended us; no resolutions of Congress were resorted to; no threats were fulminated; no pledges of standing by the President were made. The President discharged his duty by requesting the recall of the offending Ministers, and the people were content. Why is a different course now necessary? Not that by an assurance we may give confidence to the President of the readiness of the people to support the Government of their country, if the rupture with the British Minister (however mistaken its policy) should lead to war. Neither the President, nor any other man, can doubt our promptness to defend ourselves if attacked. Such a declaration implies a doubt of the fact, and a doubt on this point is not more degrading than unjust to our character. One view in the resolution must be to prop the con-

duct of the Administration in this affair, and sorry I am to say, that their conduct needs a more substantial apology than this resolution can afford, or any that I have yet heard.

I further see in this resolution not only the protraction of a settlement of our differences with Great Britain, but an intention to precipitate us into a war with that country. Language so harsh and affrontful applied to the British Minister, accompanied with what has aptly been called "a defiance to battle to the British nation," cannot be expected to conciliate, but to wound and irritate; it may lead to retaliating measures, and plunge us directly into war. I may be mistaken in this apprehension, but I will state the grounds of it. The unquestioned fact that the honorable mover of this resolution (Mr. GILES) desires an immediate war with Great Britain; the declaration of that gentleman in his speech in support of them, that he thought it probable Great Britain would make them a pretext for war; the pledge made in the resolutions to call forth the resources of the United States, predicated only on a conviction that war may result from them; and added to all these, the course adhered to in this House, in which the repeated declaration of the tendency of this measure to produce war has been met not by a denial of this suggestion, but by an enumeration of the wrongs of Great Britain to us and other nations, and by a recurrence to the weakness of our past measures, as confirming and justifying the effect of the resolution in producing war as more energetic.

Gentlemen have a right to prefer war to peace; but when they mean to produce a war, why bring it about by indirect means? Why not with honorable frankness avow war to be their object, and meet us before the people upon the open ground of war or peace, and not under the pretence of providing a salvo for our wounded honor apply an evil instead of a remedy; offering a boon, but in truth presenting an "asp in the basket of figs?" Whenever this country is disposed for war, let it boldly speak an unequivocal language and prepare for battle. These half-way measures confess to the world we wish to stab, but dare not strike.

But, sir, if war is to be sought, why choose it with Great Britain alone, while France as well as England continues her aggressions on our rights? From England we have impressments, blockades, and Orders in Council. France, less cruel to us than to other nations to whom she has extended "friendship and protection," yet permits us to exist as a nation, but violates a solemn treaty made with us; burns our ships upon the ocean; imprisons our men; sequesters and confiscates our property; and by her decrees prohibits our trade with all the world not subject to her dominion. In this state of our relations to both nations, I find nothing to induce us to strike at England alone, or so to act as to provoke the blow from her. Besides, sir, that I see not the justice of going to war with England alone, or the policy of beginning it with that nation whose absolute command of the ocean gives her the

power to do us most harm, I am opposed to any war in the present state of the world, and the present situation of our own country. The only legitimate objects of war are the redress or the prevention of injuries. Can we at this time go to war with France and England, or with either, with a reasonable prospect of effecting these ends? With an empty Treasury; a revenue sunk so low as to render loans necessary for the support of Government; fortifications so incompetent to their object that we keep secret the report of the department on their situation; an inexperienced Army; a Navy dwindled into gunboats, despicable for either attack or defence, and efficient only as a moth in the public purse! With these evidences of want of preparation gentlemen talk of going to war! In a war under such circumstances, I see the immediate loss of millions of dollars of property placed by our trade in the grasp of Great Britain; vexatious draughts of our citizens to fight Indians and Canadians; the impressment of our seamen into the despised and degrading gunboat service, under the specious title of draughts of "marine militia;" heavy taxes; the production of our farms rotting, and the farmer and merchant impoverished for want of commerce; your seaport towns bombarded and in ashes. These are the consequences which every man must perceive to be inevitable from a war in our present situation. Weighty as are all these evils of a war at this period with Great Britain, there is another still greater than these; one which at once puts in jeopardy not only our republican form of government, but our very existence as a nation. I mean an alliance with Napoleon! Dazzling as has been the path of this man's glory, I pray gentlemen to reflect a moment on the fate of those nations to whom his "friendship and protection" have been extended, and to pause before they throw our country into that embrace which has proved fatal to the independence of all who have heretofore submitted to it. And for what are these evils to be endured? Because the sensibility of our Secretary of State is wounded by an obscure intimation—a suspected insinuation from the British Minister! Sir, before gentlemen draw the sword for this cause, let the question be submitted to the people, and let them answer in the next elections. Are you for war with Great Britain for this cause? On this point I fully agree with my honorable colleague, (Mr. MACON.) The people of North Carolina, at all times averse to war, can yet submit to any sacrifices of blood and fortune when necessary for their honor or safety. But I know them not, if they will approve the war which it is the object of this resolution to produce.

The arrangement of April last between our Administration and Mr. Erskine, stipulating on our part for the removal of the restrictions of the non-intercourse and non-importation laws, as to Great Britain, and on her part the discontinuance of her Orders in Council on the 10th of June, and the disavowal of that arrangement by the British Government, though not necessary to be considered as coming to a decision on the res-

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

olution before us, yet, having a near relation to the subject, has been brought into the discussion. I may be pardoned, therefore, for expressing my view of that matter. Standing upon the high republican ground, that the Administration, if not our servants, are assuredly not our masters, I shall, in the investigation of their conduct, use the freedom which belongs to a freeman, while I cannot forget the candor which becomes me as a man and a member of this House.

I ask then, sir, whence has arisen this new difficulty, this additional point of collision between us and Great Britain, which has given birth to that controversy which the national councils are now called upon to consider; a controversy which is said to have inflicted a wound on our honor, which this resolution or war alone can heal? I say, sir, and I say it with regret because the evidence which satisfies my mind is painful to me, that the Administration in the arrangement with Mr. Erskine, if they did not disregard, certainly neglected their duty, in overlooking an objection which existed to that arrangement; I mean the want of power in Mr. Erskine to conclude it. Great Britain, as we all now know, has disavowed that arrangement, because entered into without any authority on the part of Mr. Erskine. Mr. E. was the resident Minister of Great Britain, and in that character it appears concluded that arrangement. Sir, books of the highest authority in the laws of nations, Wicquefort, Grotius, and others, have been read to us in this debate, which established beyond question, that a Minister resident has not by virtue of his general letter of credence any power to conclude a treaty, or to make any stipulation binding on his Government—that to enable him to pledge the good faith of his Sovereign to the performance of any stipulation he may make, distinct powers, delegating special authority to negotiate and conclude, are necessary. I have waited with an anxious hope, that if the authority of these writers could be impeached, or if the reverse of the proposition laid down by them could be established, some gentleman would have done it. That, if no gentleman here possessed the necessary information, some friend of the Secretary of State would have obtained his illustration of the point, and have favored us with it. So far from this having been done, gentlemen have satisfied themselves with feeble efforts to shake the high authority of this principle in the laws of nations, by their own assertion of its error, or by the production of passages from writings perfectly irrelevant to the subject.

The gentleman from the Mississippi Territory (Mr. POINDESTER) and the gentlemen first and last up from Virginia (Messrs. EPPES and NEWTON) resort to what logicians call "begging the question," they have taken that for granted which is the matter in dispute, the very thing required to be proved. They assume it as a fact that Mr. Erskine was a competent agent to conclude the stipulation with our Administration, and then search the civil law, and show from Pothier (what no one denies) that the bona fide act of an authorized agent, whatever may be his secret in-

structions, is binding on his principal; a rule by the by which however established between individual, principal, and agent, will appear not to apply as between a Government and its agent. Sir, the question is, was Mr. Erskine a Minister resident, authorized to conclude a treaty, or agreement, or arrangement, and to bind his Government by its stipulations? The opinion of the most respectable writers on the laws of nations having been read, I need only refer to them; they concur in deciding that such Minister has no such power. The practice of the British Government and of our Government since its existence have been in strict conformity with this opinion. In every case where a Minister resident has concluded a treaty, a special full power, or an authority separate and distinct from his general letter of credence, has been given. In the negotiation with Mr. Hammond, the British Minister resident in 1791, his full powers were at the threshold demanded. Separate powers were granted to our Ministers at London and France, under Washington and Adams; and to Monroe at London, under Mr. Jefferson; these cases all establish the same principle. In corroboration of all these authorities of law and usage, the Administration were reminded of the principle, and seem themselves to have entertained this opinion previous to bringing us into this dilemma. Mr. Pinkney writes them from London, the first letter in the President's communication, (its date is not given,) that he had suggested to Mr. Canning, "that it would be well (in case a special mission did not meet their approbation) that the necessary powers should be sent to Mr. Erskine." And the President informed us at the commencement of the last session of Congress, that "the British Government had transmitted to their Legation here, provisional instructions not only to offer satisfaction for the attack on the Chesapeake, to make known His Britannic Majesty's disposition to send an Envoy Extraordinary with powers to conclude a treaty, but moreover to signify his willingness in the meantime to withdraw his Orders in Council, in the persuasion that the intercourse with Great Britain would be renewed on the part of the United States."

In opposition to all this, gentlemen oppose their assertion; Mr. Erskine had power to conclude the arrangement which he made. The gentleman from Virginia, (Mr. NEWTON,) to show that he had this power as Minister resident, reads to us the opinion of Mr. Hammond, in his letter to Mr. Jefferson in 1791; that his general plenipotentiary character, and his recognition as such, "are authorities decidedly adequate to the commencement of a preliminary negotiation." This is admitted. Mr. Erskine had the same power to commence a preliminary negotiation; but he did more, he concluded an agreement; he concluded the agreement without producing any special, separate authority, giving him such power, nor does it appear any was demanded from him. Let us hear Mr. Secretary Smith in his defence upon this point. In his letter to Mr. Jackson, 19th of October, he says of Mr. Erskine, "that he had, or

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

'at least, that he believed he had sufficient authority to conclude the arrangement, his formal assurances, during our discussion were such as to leave no doubt.' And in his letter to Mr. Pinkney of 23d of November, 1809, he says, "certain it is that the British Government in former like cases, as will be seen by the adjustment of that part of the affair at Nootka Sound, which is analogous to this case, did not consider any such distinct full power as necessary." As to the case of the adjustment of the British difference with Spain respecting Nootka Sound, I have not an intimate recollection of its circumstances, but I have recently recurred to the adjustment entered into by Mr. Fitzherbert, the British Minister, and Count Florida Blanca, the Spanish Minister, and find in the declaration of the Spanish Secretary of State, that Minister declares, that "being thereto duly authorized" he offers certain terms. The British Minister in his counter declaration, accepting the proposed terms of adjustment, declares that he, being thereto duly and expressly authorized, accepts the said declaration. And the "convention" signed 28th October 1790, adjusting the dispute, in conformity to the previous declaration, states that the Ministers, "after having communicated to each other their respective full powers, have agreed upon the following articles," &c; and the convention concludes that the "said Plenipotentiaries of His Britannic and Catholic Majesties have in their names and in virtue of their respective full powers signed the present convention, and set thereto the seal of our arms."

If there is in this adjustment anything which bears out the idea of our Secretary of State, that no "full power" was necessary to authorize Mr. Erskine to conclude his arrangement, I confess it has escaped my research. As to Mr. Erskine's opinion or assurance, that his powers were competent, and the entire reliance placed on such opinion and assurance, I feel humbled as an American at the avowal, by the Administration, that they had relied upon the judgment of a foreign Minister as to the extent of his powers, instead of judging for themselves; that (for in fact it amounts to this) they had surrendered their understanding to the keeping of a British Minister! The course of propriety and of duty was plain, they should have demanded his separate powers, or his special authority to conclude an arrangement; he must have produced them, or the negotiation should have ended. His instructions are sacred and cannot be demanded, but if his powers and his instructions are contained in the same instrument, as in the case of Mr. Erskine, both must of necessity have been shown. The British Government were apprized of this, and therefore authorized him to communicate his instructions *in extenso*.

Sir, from a near and particular view of this affair I am compelled to conclude, and the conclusion is one from which I derive no pleasure, that the Administration, in the arrangement with Mr. Erskine, have overlooked what it was their incumbent duty to have attended to; they have,

from indifference to consequences, or ignorance of their duty, neglected to ascertain what were the powers or authority of Mr. Erskine; they have concluded a treaty with a man not authorized, and have made an arrangement "under circumstances which could only lead to the consequences which have followed," a disavowal by Great Britain. They stand convicted before the American people of having slumbered on their duty in this business, and to their misconduct or neglect are we indebted for this additional ground of difference with Great Britain, and all the consequences which may flow from it.

I have said, that a consequence of this want of attention was the right of Great Britain to disavow the arrangement. This is decided by my honorable colleague, (Mr. MACON,) who, while he admits that a Minister resident cannot without special authority conclude a treaty, yet contends this arrangement was not a treaty, but an agreement or arrangement—in which ground he has been followed by the gentleman from Virginia (Mr. EPPES.) My colleague (Mr. ALSTON) denies it even to be an agreement, and says "it is only a promise by our Administration to do one thing, and a promise by Great Britain in consideration thereof to do another!" This distinction between a treaty and an agreement, or arrangement, is not supported by any reasoning from the laws of nations. *Vattel* says, sec. 153: "A treaty is a pact made with a view to the public welfare by the supreme power, either for perpetuity or for a considerable time. Pacts with a view to transitory affairs are called agreements, conventions, and pactions." Sec. 206: "Public pacts called conventions, articles of agreement, &c., when they are made between sovereigns, differ from treaties only in their object. Treaties, conventions, and agreements, are all public engagements, in regard to which there is but one and the same right, and the same rules"—nothing can make this exposition plainer. "A convention or arrangement between two Governments is an agreement for the public welfare, differing from a treaty only as a simple contract differs from a deed or specialty; the object is less important, being 'a transitory affair,' therefore the contract is less solemn and less formal." Speaking of the disavowal, Mr. Smith, in his letter to Mr. Jackson, quotes from *Vattel*: "to refuse with honor to ratify what has been concluded on by virtue of a full power, it is necessary that the Sovereign should have strong and solid reasons, and that he show in particular that his Minister has deviated from his instructions." *Vattel* and Mr. Smith here agree that the principal is not bound by the act of his proxy, who deviates from his instructions; the rule of the civil law in *Pothier*, insisted on by the gentleman from Mississippi, to the contrary notwithstanding. In the same section of this author it is said: "The rights of the proxy are expressed in the instructions that are given him; he ought not to deviate from them; but everything he promises within the terms of his commission and the extent of his powers bind his constituent."

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

And sec. 208: "If a public person, an ambassador or general of an army, conclude a treaty or a convention without orders from his Sovereign, or without being authorized to do it by the power of his office, he goes beyond the bounds of his commission, and the treaty is null, as being made without a sufficient power."

It appears then that a Minister resident, without a distinct, additional authority, called "a full power," cannot conclude a treaty—that Mr. Erskine had no "full power" for that purpose—that an arrangement respecting transitory affairs, such as that concluded with Mr. Erskine, is an agreement "regarding which there is but one and the same right and the same rules" as regard treaties; and being concluded "not only without authority but in direct opposition to the most precise instructions," as we have seen from the instructions themselves, the consequence by the law of nations is, that the arrangement was null, and not obligatory upon Great Britain.

The resolution further states, that the rupture with Mr. Jackson was for the interest of the United States; to sustain this idea gentlemen in this debate assert that he offered and insisted on propositions which were insulting, and originated in a hostile disposition, and that without acceding to such degrading conditions no treaty of adjustment of differences could have been made. Sir, there, is a mistake in fact in all this. I will recall the attention of gentlemen to parts of the correspondence and documents before us, which will show how entirely incorrect is this statement.

Mr. Erskine has been introduced and relied on as a witness in this case by the Administration; I may therefore, correctly I presume, appeal to his testimony for facts. The House will recollect that the three conditions which Mr. Erskine was instructed to propose to our Administration, upon our assent to which Great Britain would revoke her Orders in Council as to the United States, which conditions are now deemed so highly insulting, were, first: That we should withdraw our non-intercourse and non-importation laws so far as respected Great Britain, and continue them as to France. Second, That we should relinquish during the present war the colonial trade, from which we were excluded in time of peace; and third, That the British Navy should aid in enforcing our non-intercourse law with France by capturing our vessels found violating the law.

The proposition contained in the first of these conditions was made by our Administration to Great Britain in August, 1807. Congress have by law assented to it—and Mr. Erskine declares in his letter to Mr. Smith, 14th August, 1809, that Mr. Madison said if either Britain or France relaxed their restrictions upon neutral commerce, "the United States would at once side with that Power against the other which might continue its aggressions."

The second condition, Mr. Erskine says, page 18, Mr. Gallatin "so far assented to as to say 'he knew it was the intention of the United States to abandon the attempt to carry on a trade

'with the colonies of belligerents in time of war which was not allowed in time of peace, and to trust to their being permitted to carry on such trade in peace, so as to entitle them to a continuance of it in time of war.'" Mr. Erskine adds, he supposed Mr. Gallatin to mean "the trade from the colonies of belligerents direct to their mother country, or to ports of other belligerents, because the right of such trade had been the point in dispute; whereas the right to carry on a trade with the colonies of belligerents to the United States had never been called in question, but had been recognised by His Majesty's Supreme Court of Admiralty." Mr. Erskine also says to Mr. Smith, (page 21,) that during the negotiation which led to the conclusion of the provisional agreement, he found no reason to believe difficulties would occur in the accomplishment of the two former conditions, "as far as was in the power of the President as to the first, and from the duty of Congress to assert the rights of the United States against the Powers who would adopt or act under the decrees of France;" and that he "received assurances that no doubt could be entertained, that a satisfactory arrangement might be made in a treaty upon the subject of the second condition, according to his explanation of it."

The origin of the two first conditions is thus settled—both are proved to have originated from the high, and if gentlemen please I will say the pure source of our Administration—the guardians of the honor and interests of our country. Whatever may be thought of their policy, gentlemen cannot, I presume, consistently with justice to the British Government and respect to our Administration, think them insulting, degrading, or hostile to our interests. As to the third condition, the first trace we have of it is in the conversation of Mr. Canning and Mr. Pinkney on the 18th and 22d of January, as stated by Mr. Pinkney.

Mr. Canning, speaking of the proposal which had been made by the United States for the removal of the embargo as to Great Britain, asks, "In what way was the effectual operation of our embargo as to France, after it should be taken off as to Great Britain, to be secured? That our vessels though cleared for Great Britain would go to France, whatever penalties our laws might denounce against offenders, and he therefore presumed that the Government of the United States would not object, after it had itself declared a commerce with France, &c., illegal, and its citizens who should engage in it delinquents, and after having given to Great Britain by compact an interest in the strict observation of the prohibition, complain if the naval force of this country should assist in preventing such commerce." Mr. Pinkney does not state any objections by him to this idea; Mr. Canning (though it now appears erroneously) conceived that Mr. Pinkney assented, to the stipulations; Mr. Erskine was therefore instructed to propose it.

Here was the origin of this third condition—it was suggested by Mr. Canning to Mr. Pink-

ney on the 22d of January. Mr. Pinkney did not object to it, his assent to it was therefore inferred, though doubtless erroneously, since Mr. Pinkney says, 6th June, his observations "did not look to the admission of this object into any stipulation; he viewed it only as a consequence, that might and would if France persisted in her unjust decrees grow out of arrangements similar to those offered in August last."

As to the character of this third condition, degrading as its admission into a stipulation would be, neither our Minister at London nor our Administration appear to have taken any alarm at its proposal; not even as conveying an "insinuation." Mr. Erskine tells Mr. Smith, page 21,) "the third condition you certainly told me could not be recognised by the President, but you added, what had great weight upon my mind, that you did not see why any great importance should be attached to such a recognition, because it would be impossible that a citizen could prefer a complaint to his Government on account of the capture of his vessel while engaged in a trade absolutely interdicted by the laws of his country." Mr. Pinkney considered it as a consequence that would grow out of the arrangement; and Mr. Canning in his conversation with Mr. Pinkney, 22d of June, as detailed by Mr. Pinkney in his letter of the 23d, says, "he had misapprehended Mr. Pinkney in January; that he was himself of opinion that the idea upon which that condition turned, could not well find its way into a stipulation—that he should have been satisfied with the rejection of it."

This is the history of the three conditions up to the arrival of Mr. Jackson in the United States. The two first, if not suggested by, were at least approved by members of our Administration; the third originated in a misapprehension of Mr. Pinkney's conversation; its recognition was by Mr. Smith in his conversation with Mr. Erskine treated simply as "not important;" by Mr. Pinkney considered barely as unnecessary, as its operation would follow as a consequence of the adjustment proposed: but in August, 1809, by Mr. Smith considered, and I agree justly so considered, as "irreconcilable to the dignity and interest of the United States." It is a little strange that a mere proposition coming from Great Britain, should excite the liveliest sensibility, when the actual execution of the same project by France has been, so far as we know, silently acquiesced in! Sir, we all know France has a decree, for enforcing our embargo by capture of all our ships found abroad during its continuance, as being in contravention of that law. The Administration may have remonstrated against this decree of Napoleon as "irreconcilable with the dignity and interest of the United States." No evidence of that fact has been submitted to us. Under these circumstances of the case officially appearing before me, I cannot so far violate my feelings and my understanding, as to say, that the mere proposal of these three conditions was an insult to the United States.

We are told in this debate, repeatedly, that a

negotiation with Mr. Jackson would have been useless, as he insisted on the preliminary admission of the three degrading conditions. Sir, it is not strange that gentlemen should stumble upon the same mistake over which our Secretary seems so frequently to have broken his shins. It is not true that Mr. Jackson insisted on these conditions; the very reverse—his express and repeated declaration that he did not insist on them appears in the documents before us. It is certain that Mr. Smith, not less than three times in the correspondence, asserts that Mr. Jackson does insist on these conditions, and Mr. Jackson as often expressly disclaims any such demand.

On the 11th of October, Mr. Jackson writes Mr. Smith, page 72: "On the subject of His Majesty's Orders in Council, I have had the honor of informing you that His Majesty having caused to be made to the Government of the United States certain proposals founded upon principles, some of which were understood to originate in American authorities, and others to be acquiesced in by them; and having afterwards ascertained, in the manner mentioned in a former part of this letter, that the sentiments of the American Government were so different from what they were at first understood to be, I was not instructed to renew to you those proposals, nor to press upon your acceptance an arrangement which had been so recently declined, especially as the arrangement itself is become less important and the terms of it less applicable to the state of things now existing."

In page 39, he says: "Such, sir, are the grounds on which it has appeared to His Majesty to be unnecessary to command me to propose to the Government of the United States, any formal agreement to be substituted for that which His Majesty has been under the necessity of disavowing; but I am directed to receive and discuss with you any proposal which you may be authorized to make to me on this head." Mr. J. continues: "As no disposition has hitherto been shown on your part to make any proposal, it has been impossible for me to state by anticipation (nor was I instructed so to do) what might be the answer that I should eventually think it my duty to return to you; consequently, I could not have made with that view the statement contained in the 4th section of your letter, and the three subdivisions of it. Such a statement would have been obviously inconsistent with the former part of my overture, which you very correctly record in the 3d section, viz: that I was not instructed to make to you any proposal whatever upon this subject."

Again, 4th of November, page 68, Mr. Jackson writes Mr. Smith: "You say 'that it is understood that His Britannic Majesty perseveres in requiring, as indispensable conditions on the part of the United States, an entire relinquishment of the right to trade with the enemies' colonies, and also a permission to the British navy to aid in executing a law of Congress.'"

"This same statement is contained in your letter of the 9th instant, and represented as the

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

'substance of what had fallen from me in our previous conferences. In my answer to that letter, I took the liberty of showing that such a supposition was erroneous, and I have looked in vain to my letter of the 23d, to find in it any suggestion of a similar tenor. I believe, therefore, that by reference to my two letters you will find, that the statement now again brought forward is contained in neither of them, that it made no part of my previous conversation with you, and that I have in no way given room to suppose that I ever made any such statement at all."

Language affords no terms of negation clearer than those employed by Mr. Jackson. He unequivocally denies insisting upon any previous conditions, or having made any previous proposals whatever. Yet gentlemen tell this House and the nation, that negotiation was useless, because Mr. Jackson insisted on the three conditions contained in Mr. Erskine's instructions! The testimony afforded us by the Administration itself, satisfies my mind that such declaration is wholly founded in error. Neither, sir, can I subscribe to the declaration contained in this resolution, that in the rupture with the British Minister, the Administration have manifested a just regard to the interests of the United States. The interests of our country demand peace, as essential to the enjoyment of commerce and the fruits of agriculture, and as best suiting the dispositions of our people. This rupture, far from securing, puts in jeopardy the peace of the country; without improving our means to sustain war, widens the breach already subsisting between Great Britain and us, and interposes new obstacles to those already existing to a settlement—a result the very reverse of a just regard to the interest of the United States.

We have been asked by the gentleman from Virginia, (Mr. EPPES,) why are not our difficulties with Great Britain settled? If the question had been why they were not now in a train of settlement, I should say because the Administration, rejecting overtures for negotiation, have shut the door in the face of the messenger of peace. On the 23d of October, Mr. Jackson informs Mr. Smith that his instructions authorized him "to receive and to discuss any proposal made on the part of the United States, and eventually to conclude a convention between the two countries." And on the 4th of November he informs him—"It will not, I dare say, have escaped your recollection, that I informed you at a very early period of our communications, that, in addition to the usual credential letter, His Majesty had been pleased to invest me with a full power under the great seal of his Kingdom, for the express purpose of concluding a treaty or convention. I well remember your testifying your satisfaction at the circumstance; and I have now only to add that I am ready, whenever it suits your convenience, to exchange my full power against that with which you shall be provided, for the progress of our negotiation."

Here is a solemn declaration that he had a "full power" to treat and conclude a treaty, and

also an offer to produce his power and enter on the negotiation whenever the Secretary should appoint. If the sincerity of Mr. Jackson was doubted, the production of his authority was tendered and might have been inspected. Stress is laid on the word "eventually," as covering an ambiguity. This appears to me a refined quibble: to conclude "eventually," can only mean to conclude in the event of their agreeing upon terms. Strike the word out, the expression is not stronger or more explicit: continue it, the force is not diminished, or rendered obscure. This refusal stands without explanation and without excuse.

"The case of the Chesapeake remains unsettled." Sir, no man more sensibly feels, and none would at greater hazards avenge that insult and wrong, if atonement be improperly withheld, than myself. Why is it at this time unadvised? The British Minister, Mr. Erskine, offered an amend, which our Administration acknowledged to be satisfactory, and consented to accept. Yet the Secretary of State, in the very act of acceptance, indulging a spirit of asperity at least unnecessary at that stage of the business, not only expressed dissatisfaction at the terms, but conveyed an unequivocal insult to the King of Great Britain. In this note accepting the terms offered, he adds, a different course would better have comported with the honor of His Majesty! In plain English, Mr. Smith says, in a paper to be submitted for the sanction of the King: "The King has not acted as became a man of honor!" In private life, unquestionably such an acceptance of tendered satisfaction would have compelled its retraction. We find therefore, the King having rejected the arrangement, Mr. Jackson in his letter to Mr. Smith, 11th of October, assigning the reasons of the rejection, declares His Majesty, "was warranted in doing so both by the form in which his Minister had tendered that reparation, and by the manner in which that tender had been received"—that he had, in conversation before, "referred to the particular expressions which made the terms appear unacceptable even to the American Government, at the very moment when they were accepted, and which at all events puts it totally out of his Majesty's power to ratify and confirm any act in which such expressions were contained."

Regarding the affair of the Chesapeake, Mr. Jackson made proposals for settling it; they were stated to be the same which Mr. Erskine was instructed to offer. But we are told these had been previously refused, and to have accepted them would have been disgrace. If this be granted, does it follow there would have been any degradation in again refusing them? To this hour the proposal remains unanswered. How shall a settlement ever be effected, if, when an unacceptable proposition is made, the objections are not stated, so that others may be substituted? I understand not this policy, nor admire pride when the great interests of a nation are at stake. To me, sir, it appears, that in this business of the rupture with Mr. Jackson, the best interests of the United States have been overlooked, or im-

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

molated on the altar of punctilio. I conclude, sir, by declaring that, in my opinion, this resolution is calculated to excite the feelings not only of the British Monarch, but of a powerful people; that, without fitting us for battle, it tends to increase the animosity already unhappily existing; that it shuts the door to further negotiation; fixes a stain on the national character in condescending to use language unworthy a great people; and finally, I cannot but fear it will prove (if the gentleman from New York (Mr. Fisk) will permit me the use of his figure) "the winding-sheet" of the peace of this country.

Mr. FINDLEY spoke in favor of the resolution.

Mr. GARDENIER, after some prefatory remarks, moved that the further consideration of the resolution be postponed to the third Monday in February.

A motion was made to adjourn, which was negatived, by yeas and nays, 82 to 26.

Mr. GARDENIER's motion was then negatived—yeas 39, nays 74, as follows:

YEAS—Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, John Davenport, jr., William Ely, James Emott, Barent Gardenier, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Richard Jackson, junior, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Joseph Pearson, Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Samuel Smith, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Howell Cobb, James Cochran, James Cox, William Crawford, Richard Cutts, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Peterson Goodwyn, Daniel Heister, William Helms, James Holland, Benjamin Howard, Jacob Hufty, Robert Jenkins, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Robert Marion, Samuel McKee, Alexander McKim, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newbold, Thomas Newton, John Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, Henry Southard, John Taylor, John Thompson, Uri Tracy, Charles Turner, jr., Robert Weakley, Robert Whitehill, and Robert Witherspoon.

Mr. TAGGART commenced a speech against the resolution.

A motion was made to adjourn and negatived, by yeas and nays, 59 to 15.

Immediately after this, it appearing that there was not a quorum present, a motion was made

by Mr. MARION to adjourn, which was negatived, 40 to 24.

Mr. MARION wished to adjourn to meet again this evening, as gentlemen appeared determined to sit it out.

This motion was not in order.

A motion being again made to adjourn, was negatived 42 to 21.

Mr. FISK moved "that the attendance of the absent members be required forthwith."

Mr. DANA called for the reading the clause of the Constitution and of the rule of the House authorizing such a motion.

Mr. WILSON moved to adjourn. The yeas and nays on the motion being required, Mr. W. withdrew the motion.

A quorum now appearing, Mr. Fisk withdrew his motion for compelling the attendance of absent members; and Mr. TAGGART proceeded in his speech, and concluded about half-past seven o'clock.

Mr. GARDENIER made a motion to recommit the resolution, and spoke at some length in favor of the motion. His object appeared to be a modification of the language of the resolution.

This motion was negatived—yeas 45, nays 71, as follows:

YEAS—Daniel Blaisdell, James Breckenridge, John C. Chamberlain, Epaphroditus Champion, Martin Chittenden, Samuel W. Dana, John Davenport, jr., William Ely, James Emott, Barent Gardenier, Thos. R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Richard Jackson, junior, Robert Jenkins, Herman Knickerbacker, Joseph Lewis, jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, Pleasant M. Miller, Jonathan O. Moseley, Thomas Newbold, Joseph Pearson, Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Daniel Sheffey, Samuel Smith, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, junior, William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Howell Cobb, James Cochran, James Cox, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Peterson Goodwyn, Daniel Heister, William Helms, James Holland, Benjamin Howard, Jacob Hufty, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Robert Marion, Samuel McKee, Alexander McKim, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newton, John Nicholson, John Porter, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Dennis Smelt, John Smilie, George Smith, Henry Southard, John Taylor, John Thompson, Uri Tracy, Charles Turner, jr., Robert Weakley, Robert Whitehill, and Robert Witherspoon.

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

Mr. WHITMAN moved that the House adjourn, which was negatived, 71 to 44.

Mr. GOLD and Mr. MACON each spoke against the resolution.

Mr. GARDENIER moved to adjourn which was negatived, 70 to 41.

Mr. GARDENIER then (at ten o'clock) commenced a speech against the resolution; when he had been speaking near an hour, a quorum not appearing within the bar, a motion was made by Mr. LEWIS to adjourn, which was negatived, 55 to 34.

Mr. GARDENIER proceeded. At two o'clock having spoken nearly four hours, he himself moved an adjournment.—Negatived, by yeas and nays, 75 to 33.

Mr. GARDENIER resumed the floor.

The SPEAKER decided that he had spoken twice to the question, and could not speak again.

Mr. GARDENIER asked leave to speak a third time, stating at the same time that he did not consider himself as having spoken twice, one time having given way for a motion to adjourn. He waived asking leave, however, and moved to postpone the further consideration of the subject till the second Monday in February. And on this motion he proceeded with his speech; which he concluded about four o'clock, having occupied the floor six hours.

Mr. SAMMONS.—I rise with some diffidence to speak, but the course this debate has taken, makes it my indispensable duty to my constituents, to give my opinion. A member from New York, (Mr. GARDENIER) has appealed to the members from that State in particular, how they could reconcile it to their friends, relatives, and neighbors, if they voted for those resolutions now under consideration, and invited a discussion. Although, I have not been in the habit of speaking in public, being called on in this public manner, I shall proceed to give the reasons on which my opinion is made up. When that is done, I shall inform my colleague who my friends, relatives, and neighbors, were in the Revolution. This I will not do to gratify the gentleman from New York; but such of my constituents as may read his speeches, and other speeches for three weeks past, of two or three hours at a time, lest they should think I had made up my opinion on theirs. No, Mr. Speaker, not on their opinion nor their lengthy speeches, but on something more substantial, on the documents of the correspondence between our Government and Great Britain, communicated to this House by the President—on this information alone I judge. The correspondence is plain; it speaks for itself; every citizen can read and judge for himself, and will be more likely to form a correct opinion, than from the most eloquent speeches delivered in this House. It would therefore be superfluous to make much explanation. Sir, I approve the conduct of the President in the dismissal of Mr. Jackson, inasmuch as a most violent and outrageous insult was offered to the honor and dignity of the nation by Mr. Jackson. What, sir, shall we let the President stand alone? No; he stands as President of the United States,

and in that capacity he is to perform the Executive duty, agreeably to the Constitution and laws of our Government, and as such the nation ought to support him. I hope the time has not arrived when a foreign Minister with insolence shall charge the Executive with a falsehood. That was the true meaning of his language—and when he was requested to desist he again insisted on it as a matter of fact. If the President had received any further communication he would for ever have lost my confidence, and, I believe, that of the nation. I will support the Executive in every just and lawful act to protect the Constitution, laws, and independence of our Federal Republican Government, at present as a Representative, and at any time as a militiaman, as I have done before, against any foreign enemy or domestic faction. If we are patriotic Americans, we had rather part with our lives than our liberty, which has been acquired by the blood of thousands of our fellow-citizens in the Revolution.

Our business here is to look to ourselves and our interest; to protect it, not to destroy it. We hear much talk about the great Napoleon and the success of the French. Our business with them in reality extends no farther than to maintain our national rights against their encroachments, and whenever that subject shall be acted on, I shall act on the same principle as I do in relation to England. Let us do one thing first, or else I fear we shall do worse than nothing. Is it our business, or can we direct the French in their relations with other nations? The great Napoleon, as he has often been termed in this House, is in the power of the God of Armies, as an axe or hammer in the hands of a workman. Thus far and no farther shall he go. Since his numerous armies failed on the Island of St. Domingo, I have thought that he was not destined for conquest in this quarter of the world, if such an attempt should be made. We hear much of our weakness, and it is insinuated that this country would become an easy prey to France. If we consider the distance between the two countries, we shall be convinced France could not carry on a war with prospect of success. But, say gentlemen, the English nation may be a bar in the way between us and France. I say, if we give up our national rights and independence to this bar, (the English navy,) we have nothing worth contending for. If we contend for liberty and give it up to England, France could not take from us what we did not possess.

As this resolution is a matter of difference between this Government and England, I shall confine myself more to that subject. We hear repeated again and again, in debate, the great power of the British navy; and much said of our inability to oppose them. I differ in opinion with gentlemen on this point. I consider the British to be in a most terrible situation. It has been the opinion of political writers, that England could not long support her Government without allies against her powerful enemies. She is nearly, if not altogether excluded from her European allies. I believe her foreign Ministers

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

have nearly all returned home except this Jackson, and I wish in my heart he was out of our jurisdiction: he does no good here, but may do much harm. This great nation with her navy, has got enough to do at home to blockade her enemy's ports—let her withdraw the remnant of her armies from Holland, Spain, and Portugal, and watch a most inveterate enemy which would take the first opportunity to attack her at home. These remarks on the situation of England have been extorted from me against my wish: we have nothing to do with the affairs of other nations except where they interfere with us. Let us talk plain—I say gentlemen in opposition have advocated the cause of England and degraded their own Government. The gentleman from New York has said that England did not encroach on the rights and independence of the United States, or words to that effect. I had taken it down, but I have lost my notes—it is no matter; I have the substance in my head. Again, he says, you are going to pass censure on the Minister of a great and powerful nation! But, sir, what does he mean when he says, When shall England and we come together again? Does he mean under the old colonial government? [Mr. GARDENIER wished to explain. Mr. SAMMONS insisted on the rules of the House, and was permitted to go on.] Shall a young lawyer, said he, who spoke or detained the House about eight hours, who knows nothing about the Revolution by which our liberties were acquired, and not much about many things he may say in this House, embarrass the proceedings of Congress by speaking of forms, punctilios, and many other terms he may collect from his law books? Etiquette is of no consequence to the nation, sir. I wish to act on the principle of the matter, not the form—the substance, not the shadow. I am sent here by freemen who expect to be heard, and I will speak as a freeman. I conceive the two nations have never been together since the Declaration of Independence. Are not the English warring on us by plundering our property on the high seas, and impressing our seamen? Must the British Orders in Council, through their Courts of Admiralty, be binding on us in all cases in our lawful commerce with other nations? It is not three years since that shameful act committed on the frigate *Chesapeake*, where the Americans received a deep wound; their blood was spilt in a cowardly manner; when they expected they had met with friends, they had their matches burning. This shameful act, said the British Government, was not authorized; although done by the immediate command of one of their Admirals (Berkeley); that the Government would make suitable reparation. Mark the result—the prisoners taken were forced into their service and there retained, and the British Minister who made an arrangement on terms accepted by our Government, they say, was unauthorized; and so say the opposition to this resolution. In the dismissal of Mr. Jackson, the President did an honorable act, and I believe every one who considers it impartially, by common sense and the independent right of the nation,

will say so. In the arrangement with Mr. Erskine, the President committed a fault: it was, to put too much faith in either the Government or its creature, the Minister, or in both. I forgive him, because he acted the honest part; he however was not cautious enough for deception. Our Government have always acted on the principles of justice and right with England, and all other foreign Governments, whilst they only tried to embarrass justice and invade our national rights.

Much has been said about the manner of negotiating; it seems to be an opinion of some gentlemen that foreign Ministers must have instructions for every act they do, and show them. Does not reason teach us otherwise? I might then as well come direct from that Government to ours, "these are our terms"—there would be no negotiating. Is there any gentleman, who, with a moment's reflection, will believe that the British Minister at Copenhagen showed to the Danish Government his instructions, and the intention of his Government to surprise them, though in perfect peace? Do not we know that the British diplomacy is a very material part or branch of their Government, by which they have had it in their power to do more mischief, and bring more confusion and destruction on other Governments, than all their fleets and armies could accomplish, when, if they had told the truth where they were received at foreign Governments, they could have done very little mischief? Is it not stated in the Annual Register as a fact, that the people in Vendée, a department of France, received supplies of powder and money from England, by which a most bloody civil war was carried on with the then Republic of France? Would that and similar acts have hastened the downfall of the French Republic, and established a monarchy in its stead, were not British diplomacy employed in almost every part of Europe? I ask if they have brought peace where they have been received of late years? Have we any reason to believe that they would act more favorably towards us than other nations, if they could divide us, or if we were weak enough to confide in their fidelity? Since we have the examples of other divided nations before us, let us unite under the Government of our choice, and take into consideration the real situation of our country, with a full determination not to yield our national rights. England will soon give up her contemptuous policy towards us, and France will be compelled to respect us as a nation.

The gentleman from New York speaks frequently of WASHINGTON. There is no man holds WASHINGTON's name in higher veneration than I do, and I never suffer any censure on his character to pass before me in silence; but, as much as I respect his name, my national liberty and independence I consider of much more importance. I have seen WASHINGTON—he appeared to be but a man; of his good qualities no one doubts. He is no more. After his death, he left us a legacy—he left us a free people, an independent nation; which I for my part am determined to support, and those who will not, should not talk about WASHINGTON's principles for a cover of deception. At all events,

JANUARY, 1810.

Conduct of the British Minister.

H. OF R.

says the gentleman, we should avoid a war, for we do not know if we could get another WASHINGTON. Sir, we the people, in general, knew little or nothing about WASHINGTON's name when the troubles with England first began. Have we no man to rely on? Is there not one of the old Revolutionary characters appointed to a high station in the Military Establishment—the defender of Fort Stanwix or Schuyler, a man of genuine patriotism and undoubted confidence?*

I must again enjoin the duty of the nation on this House. To Congress the people look for protection—let us not disappoint them—let us not eat the people's bread, and live in luxury on their money. Let us do one thing first; that is my way as a farmer, and I see it applies to this business also. There is no man more for peace than I am; but is there any other way to obtain it than to be prepared for war, with a prospect to carry it on, united and determined, as Americans? Upon no other single point will Great Britain do us justice. The times call for energy—a middle course will no longer do. I say, with others, if this resolution was not before us, I would be satisfied for the present to go on with other necessary business. But we are acting on it. Shall we then tell the nation and the world, that we are divided from the Executive? The President has acted, and cannot retract without disgrace to himself and his country. In the Summer session a great deal was done. Yes, sir, we then united like honest men; things went smoothly—every party was eager to be foremost to act for the general interest. My heart rejoiced to see the liberality of Southern gentlemen, voting for generous appropriations; there was nothing appeared for selfish views; a great jealousy appeared to be done away. Every gentleman I conversed with, though of different politics, said the President does well, makes no difference in nominating to office, and is no party man, but will act for the good of all. I hope I shall not come too closely on the motives of any party. The people were so taken in with the opening of trade, that no party could have got a party of the people. I approve the conduct of the President, inasmuch as he has not once charged the British Government with the act of their Minister, Mr. Jackson. They may make peace if they are willing to come to terms of justice. The olive branch is held out to them. What choice will they make? I believe a bad choice. Every single act of that Government seems to be to embarrass other nations, but turns out more ruinous to themselves. Will she then provoke us to a war; by continual encroachments on our national rights, with unabating contempt, the sooner to hasten her own destruction? We have nothing else to expect, unless, indeed, England finds us prepared for war, ready to act, and determined to defend our rights. If the spirit of the nation was awakened it is possible they would hesitate. It is in vain to ask for favors—but, tell that Government, you must do justice; if not, we will no longer submit. Is

not their conduct a mere mockery of us? Does not Jackson talk plain? I am come to discuss and receive proposals. Who can doubt him? He had no other object but to entangle and embarrass, without directions to make a treaty till they farther saw what was going on here and in Europe. It is time we should attend to the business of the nation, and pass this resolution. Why should more time be lost unnecessarily.

I shall now give a short account who my friends, relatives, and neighbors, were in the Revolution. They were a kind of people at that time called Whigs—near them was another kind of people called Tories. I have been particular to make a distinction of two kinds of people because they differed in principle. It so happened that the Whigs talked about liberty—a number of them collected to raise a liberty pole. Colonel Johnson, then Superintendent of Indian Affairs, a very lucrative office, Sir John Johnson, and many others of their connexion, attended at the place in order to embarrass and stop the progress of liberty. The Whigs that were collected were farmers, and could not argue with these great men, but were determined to take part with their own country, not a foreign Government. Colonel Johnson addressed the meeting, and requested or rather commanded them to desist and give up their visionary projects. This did not satisfy the Whigs, and, as the spirit of liberty spurred them on, they could no longer remain silent. One of them made some reply on the right of Americans to oppose certain acts and impositions of the British Government. Colonel Johnson continued his discourse. What, says he, would these colonies do? would they dare to go to war with so great and powerful a nation as England? They have no navy, and are in no situation to build ships-of-the-line. A few regiments of regulars, with the faithful subjects, (meaning the Tories,) will march through any part of the Colonies. Your seaports will be totally destroyed, and we will send the Indians and Canadians on your backs. It will soon be over with you, and your rebel leaders will be hanged. They did not speak of a war with England as terrible as we now hear it spoken of, nor did they say one word of the justice and rights of the people. A war soon commenced, when they joined the British, their real patrons, and deluded many honest people to go with them, who afterwards imbrued their hands in the blood of their neighbors. From the commencement to the close of the war, the British, with their Indian allies and Tory friends, did carry on a most terrible, inhuman, predatory war, with fire and sword. Enormous barbarities were inflicted on my friends and neighbors, desolating our frontiers without regard to age, sex, or condition, with almost a total loss of property. Those of us whom the fortune of war put in their power, were confined in prisons, there to languish in irons, of which one of my nearest relatives partook a share. To such people I can say that I am not afraid to return, when I support the principle they once contended for. At the same time I assure my colleague, that I have no consideration in giving

*General Gansevoort.

H. OF R.

Conduct of the British Minister.

JANUARY, 1810.

my vote on this resolution or any other question to acquire popularity from any political party or neighbors.

The difference between this country and England is a great national controversy of principles, which has nothing to do with our party differences. Before the Revolution, all the most humble petitions setting forth the right of the Americans, laid before the foot of the Throne, could get no redress, but were treated with contempt—in a similar manner as our present remonstrances are now treated; but patriotic Americans then only inquired what was right, what was just, and on a matter of just principle they met their enemy; and there was no consideration about loss of property, but liberty or death. With arms and the undaunted spirit of freemen we persevered. Yes, sir, in the records of our Revolution you find that the brave men who followed WASHINGTON, could be traced by the blood of their feet over the frozen ground; they, however, did not charge this to their own Government, but England. Was this a matter only for themselves? No, sir, it is left for us to defend, and there is no right in us to give it up to England under any consideration or pretension whatever. By the solemn oaths we have all taken before our God to support our Constitution and laws, we are compelled to defend it. We have nothing from England as a gift, but forced her by arms to acknowledge our independence—and we are in duty bound to defend it by arms. And until we can convince her, as we did before, I fear she will not let us alone, unless she sees the spirit of freemen raised. Let us then unite as Americans. With respect to myself, the Journals of this House prove my politics; they are not confined to any party consideration. I do not care whether a proposition comes from a Federalist or a Republican. I only consider the subject of the matter, and what I believe to be right I support with my vote. I have yet great hopes we shall act together—if we can, on this question. Yes, sir, when I see in the opposition men who deserve well of their country, in particular an honorable gentleman from Connecticut, (Mr. TALLMADGE,) now in his seat, I hope we shall unite. I lately read an account of a detachment which he commanded, and in a gallant manner surprised a post of our inveterate enemy, the British; he surely will defend the old principles, and will not suffer the honor of his country to be laid in disgrace before any foreign Power.

Mr. POTTER spoke for half an hour in explanation of his former subject.

The question was then taken on postponement as moved by Mr. GARDENIER, and negatived without a division.

And at length, at half past five o'clock, the main question on the final passage of the resolution was taken and carried—yeas 72, nays 41, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jr., William Anderson, Ezekiel Bacon, David Bard, Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler,

Joseph Calhoun, Matthew Clay, Howell Cobb, James Cochran, James Cox, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Peterson Goodwyn, William Helms, James Holland, Benjamin Howard, Jacob Hufty, Robert Jenkins, Richard M. Johnson, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Robert Marion, Samuel McKee, Alexander McKim, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newbold, Thomas Newton, John Nicholson, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Thomas Sammons, Ebenezer Seaver, Adam Seybert, Dennis Smelt, John Smilie, George Smith, Henry Southard, John Taylor, John Thompson, Uri Tracy, Charles Turner, jr., Robert Weakley, Robert Whitehill, and Robert Wither-
spoon.

NAYS—Daniel Blaisdell, James Breckenridge, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, Samuel W. Dana, John Davenport, jr., William Ely, James Emott, Barent Gardener, Thomas R. Gold, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Richard Jackson, jr., Herman Knickerbacker, Joseph Lewis jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Nathaniel Macon, Archibald McBryde, Jonathan O. Mosely, Jos. Pearson, Benjamin Pickman, jr., Timothy Pitkin, jr., Elisha R. Potter, Josiah Quincy, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

[On this vote were absent 27 members, viz: MESSRS. CAMPBELL, CLOPTON, COOK,* CRIST, DENNING,* GOLDSBOROUGH, GRAY, HEISTER, J. G. JACKSON, JONES, *Key*, LYON,* MATTHEWS, MILLER, T. MOORE, MUMFORD,* NELSON, RANDOLPH,* SAWYER, SHAW, SHEFFEY, J. Smith, S. SMITH, Troup, VAN DYKE,* *Van Horn*, and WYNN*; of whom those marked (*) have not appeared in their seats during the present session, and those in *italic* are known to be absent from the city.]

The House then adjourned, at a quarter before six, after a session of nineteen hours, during the whole of which time the Speaker presided in the Chair with dignity and moderation, to Friday next.

FRIDAY, January 5.

Another member to wit: from Delaware, NICHOLAS VAN DYKE, appeared, and took his seat in the House.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting two statements of the importations in American and foreign vessels, from the first of October, to the thirtieth of September, which were read, and ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of the Navy, transmitting a statement of the expenditure and application of moneys drawn from the Treasury, between the fourth of March and the thirtieth of September

JANUARY, 1810.

Rules and Orders.

H. OF R.

last; which was read, and ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a statement of the expenditure of the moneys appropriated for the contingent expenses of the Military Establishment for the year 1809; which was read, and ordered to lie on the table.

The SPEAKER also laid before the House another letter from the Secretary of War, transmitting a statement of the expenditure and application of moneys drawn from the Treasury between the fourth of March and the thirtieth of September last; which was read, and ordered to lie on the table.

Mr. MORROW, from the Committee on the Public Lands, made a report on the petition of Joab Garret, referred to them on the twelfth ult.; which was read at the Clerk's table, and the resolutions therein contained, agreed to as follow:

"Resolved, That Joab Garret be permitted to withdraw his entry from the northwest quarter of section number two, in township number seven, of range number seven, in the Vincennes district, and the money paid by him on the said purchase be placed to his credit on any entry he shall or may have made in the same district."

"Resolved, That, from and after the first day of June next, any person making application to the Register of any of the Land Offices of the United States, for the purchase of a tract of land, shall produce to him a memorandum in writing, stating the number of the section, half section, or quarter, as the case may be, and of the township and range for which he shall make application, subscribing his name thereto, which shall be filed and preserved by the Register in his office."

Ordered, That a bill, or bills, be brought in, pursuant to the said resolutions; and that the Committee on the Public Lands do prepare and bring in the same.

RULES AND ORDERS.

On motion of Mr. SMILIE, the House resolved itself into Committee of the Whole on the report of the committee appointed to report rules and orders for the government of the House. The report contains the following, among other rules:

"The previous question shall be put in this form: 'Shall the main question be now put?' It shall only be admitted when demanded by one-fifth of the members present; and, if decided in the affirmative, shall be instantly put without amendment or further debate; but, if decided in the negative, the business shall progress as if the previous question had not been called."

"On a previous question there shall be no debate."

Mr. LIVERMORE moved to strike out the first of these. This motion was supported by Messrs. LIVERMORE, GARDENIER, QUINCY, SHEFFEY, ELY, PICKMAN, WHEATON, DANA, and EMOTT; and opposed by Messrs. RHEA, BASSETT, ROSS, SMILIE, SOUTHARD, BOYD, FINDLEY, W. ALSTON, ROOT, and JOHNSON.

The arguments in favor of striking out the rule relating to the previous question were, generally, that it had for its object the abridgment of the

freedom of debate, and was following too closely the practice of the British Parliament; that this House being constitutionally a deliberative assembly, it was not for the majority to say, thus far shall debate be permitted, and no further; for, if they could do this, they had the same right to say that the minority should have no voice; that it would prevent the minority from showing the enormity of the doings of the majority, and would shroud their acts in the mantle of darkness; that at present much time might indeed be consumed in useless debate, but that this evil ought to be regulated by a sense of propriety, and not by a rule of the House; that, if this rule were adopted, the most important measures might be decided without a word of debate, although on hearing arguments gentlemen might have changed their opinion of them; that this rule might remind the House of the circumstance, that, when the Abbe Sieyes had presented a constitution to the consideration of Bonaparte, the conqueror was charmed with the feature of a *dumb Legislature*; that legislation without debate was always favorable to tyranny; that the introduction of a rule providing for the previous question was not even necessary for the purpose which its advocates had in view; for, from late experience, it was known that whenever the majority were disposed to force a question, they had it in their power so to do; that such a rule was unconstitutional, because the Constitution forbade Congress to restrain the freedom of speech; and if they could not restrict the people in the freedom of speech, much less surely could they abridge that privilege in this House—the sanctuary of liberty; that every member of this House had a right to deliver his sentiments on any subject before the House, and could not be deprived of it; that this privilege, like the freedom of speech, was productive of some evil, but the moment either was restrained, such restraint was an invasion of the principles of free government; that the rule, however colored, amounted to this—that no member of the minority should be allowed to speak until a vote of permission for that purpose was first obtained from the majority. It was asked, would the renovation in the public councils have been effected, if the freedom of debate had not been permitted at the time when everything was going to ruin? If such a rule had been proposed in 1798, the nation would have been told, by those who now support this rule, that it was the vital stab to liberty. That which had been wrong yesterday, was wrong to-day; that which would have been wrong in the majority, could not be right in another. It was also said, by several of the supporters of Mr. LIVERMORE's motion, that the rule proposed to be stricken out was at war with political liberty, incompatible with the freedom of debate, and in defiance of the spirit of the Constitution; that majorities, who could not be supposed to be wholly exempt from the infirmities of human nature, might, from the influence of passion, rush headlong into a measure, without the least consideration; that rapidity was not so much an object in legislation as wisdom; and a multitude of laws often proved an evil.

Finally, that this rule, at the present time particularly, ought not to be adopted, as the House might shortly have to decide the question of peace or war, on which much deliberation undoubtedly would be requisite.

On the other hand, it was remarked, in support of the rule, that the evil intended to be guarded against by it, was blended perhaps with some of the best sensations of the human mind—a perseverance in what is deemed right by each—and that the question what was right could not be decided by any direct standard to which the human mind can resort; that it is the principle of this as of every free Government, that the majority shall rule, and, without assuming that the majority is always right, its decision was the best standard to which they could resort; that the majority, being responsible for all measures adopted, ought not to be prevented from acting till too late by a determined opposition; that, if the minority infringes the right of the majority to govern, there should be some rule to prevent the violation of the principles of the Government; that the privilege each member possessed of delivering his sentiments, however precious, was not so valuable as the right which each member possessed of acting; and the restriction of this privilege would not be so alarming as the destruction of the Government, which might be the consequence, as the rules of the House at present stood, if the minority were obstinately bent on preventing the House from acting; that, although the project of a dumb Legislature might have charmed Bonaparte, he never would have had an opportunity to approve any constitution, had it not been for the anarchy, confusion, and unrestrained licentiousness, which prevailed in the National Convention, and which finally destroyed it; and it was to prevent such anarchy, and abuse of the freedom of debate, that this rule had become necessary; that minorities, too, were subject to the failings of mankind, and that passion might operate upon them, when a most urgent law was to be passed, by speaking for six hours at a time, solely to prevent the Legislature from acting—from doing that for which they were expressly chosen; that there was no fear of the measures or the acts of the majority being veiled in darkness; for, supposing (what was very improbable) an abuse of the rule, the press was open to every man, and could not be restrained; that the idea of the unconstitutionality of such a rule was absurd; for the same mode of argument would prove that the House had no right to prevent any member from speaking more than twice to the same question, although the Constitution declares that each House may determine the rules of its proceedings; that experience had shown that such a rule was necessary to prevent the consumption of the time of the House by a member's speaking four, five, six, or eight hours, merely for the purpose of spinning out time, and moving to adjourn, calling the yeas and nays on the motion to give himself time to take breath, and then making frivolous motions for the purpose of speaking still longer on them; that, in order to do the public business, if no such rule was adopted, it would

be necessary for the people to select their Representatives, not for the strength of their intellect, but for the robustness of their constitutions, and their capacity of enduring fatigue; that the abuse of the freedom of debate had become so flagrant as to impede all public business, unless those desirous of doing it would sacrifice their health, and perhaps their lives, in sessions of nineteen or twenty hours in length, and this, too, after a subject had been debated ten or twelve days. It was also said that this was no new rule—that it had existed in this body, with various modifications, since the commencement of the Government, until within two years, when the decision of the House had done it away in practice, though it still remained in the rules; that it had existed in the British Parliament for two centuries; that arguments against a rule or law, drawn from the possible abuse of it, would go to the destruction of all law and government; that this rule had never yet been been arbitrarily enforced, and probably never would, as its object was more to remind members of the propriety of conceding a little to their fellow-members, and treating them with decorum, than for the purpose of actually putting an end to debate; that no majority would improperly use this rule, because, if they did, they were responsible to the people for it, who would not fail to redress the evil. The novelty in this case was said to be, not that such a rule should have been proposed, but that, after having existed, under every Administration, it should now be moved to reject it.

The opponents of the rule replied, that this rule was wholly different from former rules on the subject, as it excluded debate on the previous as well as the main question. It was also said, that the doctrine laid down that the majority should govern was an arbitrary doctrine. It was natural for majorities to seek to increase their power. It was true, that the people might apply the corrective to abuses of power by the majority; but it might as well be said, after a violation of the right of *habeas corpus* had deprived the citizen of his liberty, or after an *ex post facto* law had swept him off, that some twenty years hence the people would apply the corrective. A majority might set out with the best views, but might do acts to produce the most disastrous consequences. The majority always did wrong when it took means to silence opposition, and to humble those who opposed them. This had been the doctrine ten years ago of those who advocated this rule, and it was the correct doctrine still. It was said that the argument that the licentiousness of debate had destroyed the Government of France, as used in support of this rule, might remind the House of the Hibernian who cut his throat to save his life. The House were called upon to destroy the principles of freedom in order to prevent slavery. If the majority had a right to prevent the minority from expressing their opinions, they had the same right to send them home—to banish them from the Capitol.

This debate was continued, in a warm yet desultory manner, till 4 o'clock; when, on motion

JANUARY, 1810.

Naval Establishment—Previous Question.

H. OF R.

of Mr. TALLMADGE, the Committee rose, reported progress, and obtained leave to sit again.

SATURDAY, January 6.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting an estimate of an appropriation of moneys for the service of the year one thousand eight hundred and ten, together with an account of receipts and expenditures for the last year, and a statement of balances unexpended on the thirtieth of September last; which were read, and referred to the Committee of Ways and Means.

The SPEAKER also laid before the House a letter from the Secretary of the Navy, transmitting a report on the subject of the Navy Pension Fund; which was read, and ordered to lie on the table.

Mr. RHEA, of Tennessee, presented a petition of sundry inhabitants of the Territory of Louisiana, praying that the second grade of Territorial Government may be established in said Territory. —Referred to Mr. RHEA of Tennessee, Mr. GRAY, Mr. ANDERSON, Mr. HUFFY, Mr. GARDENIER, Mr. SEAVER, and Mr. HOLLAND; with instructions to examine and report their opinion thereon to the House.

Mr. HOLLAND moved that the House do come to the following resolution:

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of encouraging the manufacture of iron, by making a donation of a certain portion of land to such persons as may erect iron works within the Territories of the United States.

The said resolution was read, and, on the question taken thereon, disagreed to by the House.

Mr. EPPES, from the Committee of Ways and Means, asked and obtained leave to present a bill to revive and continue in force the first section of an act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers;" which was twice read and committed.

[This law laying the duty commonly called "The Mediterranean Fund," expired on the 1st instant. The bill now reported proposes to continue it till the 4th March, 1811.]

NAVAL ESTABLISHMENT.

Mr. BASSETT, from the committee appointed on that part of the President's Message at the commencement of the session, which relates to the Naval Establishment, made a report, in part; which was read, and referred to a Committee of the Whole on Monday next. The report is as follows:

The committee appointed on that part of the President's Message relating to the Naval Establishment, report, in part, that they found that the frigates now in ordinary was the only part of the subject requiring immediate attention. Besides the motives presented in the Secretary's letter for an immediate reparation of those frigates, the eventful situation of our country furnishes a strong inducement to placing those valuable ships in a state to aid in the protection, not of our ports

only, but of those numerous exposed situations on the water, with which our country abounds. The committee, therefore, recommend the following resolution:

Resolved, That the hulls of the frigates now in ordinary ought to be immediately repaired, and that — dollars, out of any money in the Treasury, is appropriated for the same.

Accompanying this report, was a letter of the Secretary of the Navy, stating his opinion that the frigates in ordinary do require material repairs; that the increasing injury which will result from their remaining in their present situation may be estimated at 30 per cent. for the first year. The following estimate of the expenses of repairs is also submitted:

| | |
|--|-------------|
| For repairs of vessels now in commission | - \$150,000 |
| For freight, store-rent, and all other contingent expenses | - 75,000 |
| For the repair of frigates now lying in ordinary, and keeping the gunboats that are not in service in a state of preservation, &c. | - 450,000 |
| For freight and other contingent expenses | - 100,000 |
| Total | - \$775,000 |

PREVIOUS QUESTION

The House again resolved itself into a Committee of the Whole on the unfinished business.

Mr. LIVERMORE'S motion being still under consideration, Messrs. BLAISDELL, GARDENIER, and BACON, supported, and Messrs. ROSS and McKEE opposed it.

On the question being taken, the motion was negatived—56 to 47.

Mr. QUINCY moved to amend the rule by striking out some words and inserting others, so as to make the rule similar to that which has heretofore existed on this subject.

Mr. RHEA called for a division of the question, and the House refused to strike out the words—59 to 36.

Mr. BACON moved to amend the rule, by adding at the end of it the words, "on the main question," so as to allow the previous question to be debated.—Negatived, ayes 22.

Mr. QUINCY moved to amend it, by adding the words, "But the previous question shall never be put until every member who chooses to speak shall have spoken once on the main question." Mr. QUINCY and Mr. TALLMADGE supported the motion, and Mr. RHEA and Mr. W. ALSTON opposed it.

Before the question was taken, on motion of Mr. SMILE, the Committee rose, reported progress, and obtained leave to sit again.

MONDAY, January 8.

Mr. MORROW, from the Committee on the Public Lands, presented a bill to prescribe the mode in which application shall be made for the purchase of land at the several land offices, and for the relief of Joab Garret; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. DESHA presented a petition of Daniel Boone,

of the Territory of Louisiana, stating that he has employed the greater part of his life in exploring the Western wilds, and in promoting the settlement and civilization of that part of America, and that by a construction of the land laws applicable to the said Territory, he has been deprived of a piece of land to which he conceived himself entitled, and praying that, in consideration of the services before stated, Congress will extend to him some evidence of the liberality of his country.—Referred to Mr. DESHA, Mr. VAN DYKE, and Mr. KENAN, with instructions to examine and report their opinion thereon to the House.

The House resolved itself into a Committee of the Whole on the bill to revive and continue in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers." The bill was reported without amendment, and ordered to be engrossed and read the third time to-morrow.

Mr. NELSON, from the Committee on the Military Establishment, made a report, in part, on that part of the Message of the President of the United States, of the 3d instant, which relates to the raising of a volunteer force; which was read, and referred to a Committee of the Whole to-morrow. The report is as follows:

"The Committee on the Military Establishment of the United States, to whom was referred so much of the Message of the President of the United States of the 3d instant, as relates to raising a volunteer force, report, in part, that they have taken the same into consideration, and are of opinion that it is highly expedient to place forthwith the country in a more complete state of defence, and recommend the following resolution:

"Resolved, That provision be made by law for raising and embodying a volunteer force of twenty thousand men, exclusive of officers, to be enlisted and held to serve for the term of — from the time of their being in actual service."

ARMED MERCHANTMEN.

Mr. LIVERMORE offered the following resolution:

Resolved, That the Secretary of the Treasury be directed to cause to be laid before the House a copy of any instructions issued to the collectors of the several districts of the United States relative to refusing clearances to any private armed vessels of the United States.

Mr. EPPES moved to amend the motion by adding to the end of it the words "during the present or any former Administration."

Mr. LIVERMORE accepted the amendment as a part of his motion.

Mr. RHEA objected to the motion because he could not see the object the gentleman had in view, the laws of the United States not having authorized the arming of any private vessels.

Mr. LIVERMORE and Mr. PITKIN supported it, as calling for information to which no one would object, and which might have a bearing on subjects under the consideration of the House.

The motion was agreed to—51 to 24.

AMERICAN NAVIGATION ACT.

On motion of Mr. MACON, the House resolved itself into a Committee of the Whole, on the bill "respecting the commercial intercourse between the United States and Great Britain and France, and for other purposes."

After the Chairman had read through the third section, which interdicts the entrance into the United States of all vessels sailing under the flags of Great Britain or France,

Mr. LIVERMORE said he thought it proper to examine how this interdiction of the entrance of all private vessels would operate. He had waited for some gentleman of the committee to explain what would be the operation of the bill, but none had come forward. He thought it worthy of inquiry how far, if this bill were passed, Great Britain might countervail the restrictions imposed by the United States. In the present form, he conceived the bill might operate very injuriously. The Committee ought to consider what articles were to be exported from the United States and what to be brought back in return. Every article exported was bulky, as cotton, tobacco, &c., whilst the manufactures imported in return did not occupy much space. If this bill, as it stood, were to be passed, would not the consequence be a law to prevent the entrance of our vessels into the waters of Great Britain? If it were in the power of Congress to confine the carriage of the products of the United States absolutely to their own registered vessels, some benefit might result to the shipping interest of the United States from such a measure; but it was not in the power of Congress to tie up the hands of Great Britain and France. If the United States were to enter into a warfare of this nature, it would be playing a game which would operate to their own disadvantage, and not to that of foreign nations. He believed it would be found that the duties on tonnage, and the discriminating duties on imports, had carried this system as far as was expedient; and he could not see any benefit to result from prohibiting foreign vessels from entering our waters.

Mr. SAWYER said that he, too, was opposed to this section, and the whole bill altogether, because it was not strong enough; it was evaporating the spirit of the nation in mere commercial regulations. After every insult for so many years past, our wrongs were now to be expiated by restrictions on our own commerce! We invite aggression by continuing the same system. If this was the *ne plus ultra* of resistance, he said he could not consent to give it his vote. It would not satisfy the people, and it ought not; they were tired of this mockery of resistance of these commercial restrictions and resolutions of approbation. The least that could have been expected from the Committee of Foreign Relations would have been a bill authorizing the issuing of letters of marque and reprisal. No reparation had been obtained for the affair of the Chesapeake, no release of our impressed seamen, nor any revocation or modification of the Orders in Council; and yet, for the mere pittance, the slight vestige

JANUARY, 1810.

American Navigation Act.

H. OF R.

of our former trade which the orders left us, the House was called upon to continue to carry on commerce with Great Britain and France. If the conduct of the nation were not more energetic, he said we should forfeit the little character we had acquired, and call down on us the contempt of every nation on earth; we should become contemptible even in our own eyes; for it was impossible for any man to contemplate the state in which we are, and the measures which had been, and were proposed to be taken, without feeling absolutely debased. We had, he said, tried this system for several years; it had done no good, and it was time to try some other. Gentlemen were now persevering contrary to the evidence of their senses, to the impulse of their feelings, and, he believed, to the wishes of the nation. While no French ships and scarcely any English ships now came into our waters, the formal prohibition of their entrance would but give a pretence for the indiscriminate capture of all our commerce, without producing any benefit whatever to the United States. Mr. S. concluded by moving that the Committee rise, with a view to postpone the subject till the 3d Monday in February.

Mr. MASON adverted to the very opposite reasons for which the two gentlemen who preceded him had opposed the bill. The gentleman from Massachusetts thought it was so strong that it would ruin us, by drawing upon us countervailing acts; and his colleague thought its weakness would only warrant further aggression on us. The Committee of Foreign Relations, he said, had been well aware of the situation in which they were placed. The Message of the 29th of November had been understood to be a pacific one. It had been acknowledged on all hands that the non-intercourse was totally useless. It was necessary that something should be done; and the committee had agreed to report this bill. The gentleman from Massachusetts had told the House, that if they adopted this bill, and Great Britain and France should countervail its provisions, the United States would suffer. At present, Mr. M. said, they captured and condemned our vessels, and they could not injure us much more in that way. The real question was, whether, as the President in his Message had shown a disposition for further negotiation, Congress would lend him their aid in it. Suppose Great Britain did countervail, and say that our ships should not go to her dominions, then the bill had provided that neither Amelia island, Halifax, or any other intermediate port, shall be a place of deposite. But, as our exports were the most bulky, if it were to be agreed that each nation should carry its own products, we should carry fifteen or twenty times as much as Great Britain would, and the advantage would be greatly on our side.

The bill had been reported in such a form, Mr. M. said, as that such parts as should not be agreeable to the House should be struck out. His colleague had thought the bill too weak. If Congress were to adopt the bill, did it prevent them from adopting more energetic measures? Cer-

tainly not. This bill differed wholly in its nature from the non-intercourse law, because it took off the restrictions from ourselves and put them on our assailants. It appeared to him, under the present situation of the country, that the committee must have been unfortunate indeed if it had reported a bill for issuing letters of marque and reprisal; for, last Winter, when matters stood much the same as they did now, the question had been tried in this House with perhaps as few votes as anything ever received which had been talked so much about. When the question had been stated on issuing letters of marque and reprisal forthwith, instead of at a distant day, where then had been the energy called for? A reference to the yeas and nays on that vote would show how few had voted in the affirmative.

Mr. M. said it was evident from the whole tenor that its object was to take the restrictions from our own nation and lay them on Great Britain and France; and it was an object worthy of consideration in the passage of this bill, that it was such a one as the nation could stand to for any length of time. If the Committee were to strike out every clause in the bill but that which repealed the non-intercourse law, he should be opposed to rising till they agreed to that one. At every place in the nation where even a boat could come, the people were satisfied that the non-intercourse law could not be enforced. If it was a mere dead letter, it should be repealed, and they should thus put every man in the nation on the same footing.

As he did not with his colleague think this a very weak bill, neither did he with the other gentleman think it a very energetic bill. He said he should have liked to have heard this talk of energy when the Chesapeake was attacked, and when the celebrated Orders in Council were issued; but the time for it had passed. They could not all, it seemed, get warm at the same time. It was best to take such measures now as the nation could stand to, and as would enable the President to settle our disputes with one or both belligerents; and this bill was calculated for that purpose. Whether the bill would satisfy the people or not he was totally ignorant. He himself could never tell here what would satisfy those whom he represented, and all that he could do was to act as he thought right, and depend on such conduct for their approbation. Last Winter the measures which his colleague now called paper measures were too strong for him, for he wanted to open a gate to go to the West India islands. This bill was different from the non-intercourse law, as it opened the world to the commerce of the United States, and shut their ports to the vessels of Great Britain and France. Mr. M. said he had hardly expected a complaint against the bill from gentlemen from the East, though he had thought from another part of the nation there might be a complaint. He cared very little what was done, so that there was not too much energy in it. He was not for a declaration of war just now, and he took this opportunity of saying so. The nation was not as much prepared now for

H. OF R.

American Navigation Act.

JANUARY, 1810.

war as it had been last Winter, or as it had been when the Chesapeake was attacked. As to the petty quarrel between Mr. Smith and Mr. Jackson, he did not think that it changed the state of affairs one iota.

Mr. PICKMAN expressed his hope that the motion for the rising of the Committee would not prevail. He considered the bill as a very important one, and sincerely hoped that it would meet that cool and deliberate discussion to which its importance, and the respectability of the committee who reported it, entitled it. There were some parts of the bill which met his cordial approbation; there were other parts to which he could not give his assent till his objections to them were removed. The first section of the bill (interdicting the entrance of our waters to the public armed ships of Great Britain and France) he approved. He said it would be recollected that, at the last session of Congress, he had voted for the motion for excluding the armed ships of both Great Britain and France. He had done it because he thought it a disgrace to admit into our waters armed ships sailing under orders to capture our vessels; and he hoped they never would be admitted under such circumstances. With respect to the third section, he confessed that he had not entirely made up his mind. He did not think, however, that it would authorize either Great Britain or France to pass such decrees as his colleague seemed to think they would do, for it would not essentially change our commercial relations with them, as they are now prohibited from carrying on commerce with our ports, and our vessels are prohibited from going to theirs.

Mr. P. said it would also be recollected by gentlemen that he had spoken against the non-intercourse law at the last session, and did not vote for it because he had believed it totally ineffectual for the purposes for which it was passed. He had thought then, and experience had confirmed the truth of his opinion, that it was totally inefficient; that our citizens could not be restrained from violating it, and that it would operate only on those honest men who were disposed to pay a regard to the laws of their country, although they doubted their expediency. The fifth section of this bill, (prohibiting the importation of French or British goods from any other part of the dominions of either than where they were grown or manufactured,) he said, was liable to some of the same objections as the non-intercourse law. He conceived it utterly impossible thus to prevent the importation of the produce or manufactures of Great Britain and France, as, if prohibited directly, they would be imported circuitously through St. Bartholomews, &c., and our merchants might innocently import the produce or manufacture of those countries, after purchasing them as the produce of the neutral country. At present so numerous and so complicated were the various restrictive laws, with respect to our commerce, that it was almost impossible for the most honest man to construe them correctly. This information he said he derived from the Collec-

tor of the port of Salem, in Massachusetts, who, he believed, was disposed to give as fair a construction to the laws as any man in the United States. Mr. P. said it was very requisite that this or some such bill should pass, for the reason that it went to take off all the restrictions from our own citizens and throw them upon the subjects of those nations which were pirating on our commerce. He hoped the motion would not prevail for the Committee's rising, but that they should go on and give the bill a full and deliberate discussion.

Mr. TAYLOR said, if, indeed, this bill was as nerveless as it had been represented by the gentleman from North Carolina, (Mr. SAWYER,) and from other quarters, he believed it would be easy to demonstrate that the course which the gentleman himself had proposed to give this subject was infinitely more nerveless, and destitute even of infantine strength. [Mr. SAWYER said he had made no proposition.] Mr. T. said he alluded to the proposition for postponing the consideration of the subject till February. Are we, said Mr. T., on a bed of roses? Will the House recollect the situation in which we are? It is true that I was not an admirer of the present project—I did not give it my support in the committee—but, nevertheless, when I reflect on the situation in which we shall be if this bill be postponed, I conceive it is necessary to vary our situation. The non-intercourse law has produced the effects foretold. You have given up the carrying trade—the bone of contention—the very object which the gentleman from Pennsylvania (Mr. MILNOR) very truly told you excited the envy of Great Britain to your rival. Where are we now, sir? A gentleman, upon whose information I can rely as correct, has slipped upon my table a paper containing the information that there are now at Amelia island one hundred British merchant vessels ready to take the bread from our merchants, who, in fact, have only the alternative of coasting along to Amelia island, whence our produce will be immediately shipped across the Atlantic. Now, would it not be nerveless, indeed, to arrest the consideration of this subject for two or three months when this is the state of things?

I understand that our custom-house offices are hermetically sealed; that, although British goods are found on the shelves of our merchants, yet, as the non-intercourse law has said that they cannot be imported, they get into the country without the custom-house officers receiving a single cent to pay the public burdens. This is precisely the situation in which the gentleman from North Carolina wishes us to continue for six or eight weeks longer. Let this bill be adopted or not, I do not like gentlemen to condemn it in the lump, unless they will be kind enough to make some specified proposition to substitute in the place of the clauses of it, which shall better our situation. We must act on it. We are, as the country now stands, the enemies of the commercial interest, for we are giving foreign nations the entire benefit of our commerce, and depriving our honest citizens of the advantages which this bill will

JANUARY, 1810.

American Navigation Act.

H. OF R.

offer to them. If it is of importance that our flag should be unfurled on the ocean as a commercial nation, it is necessary that we should now act. Every commercial town, port, and harbor, knows the course the thing is taking. The American vessel takes its departure with a cargo of produce, and returns to this country no more unless it has cast away its character of American and become a foreign vessel. It is probable, sir, that among those vessels at Amelia island are many that were American, but are now changed to English.

I am decidedly against the Committee's rising. Some parts of the bill may be good, some bad; but there certainly is a clause in the bill which will keep pirates and plunderers from our ports and harbors; and as to energy, I can tell those who talk of it that there is a clause in this bill which may prevent us from being *Copenhagened*; that a port may be so well fortified by nature and art combined as to oppose an armed force approaching, and yet which may not be competent to repel it after it has been received in peace and friendship within our ports and harbors.

Mr. LIVERMORE declared himself also opposed to the Committee's rising. He wished to know what was the extent of trade now carried on with our ports in British bottoms, and what its amount? He said he knew that there was a small trade carried on in small vessels from Nova Scotia to the United States, and which was very beneficial to the citizens of the United States; the stoppage of which, as proposed, would operate very unequally. It was a trade which could not so well be carried on by vessels of the United States. If Congress commenced this business, they might show Great Britain how she also might lay additional restrictions. Some of the sections of this bill, Mr. L. said, he thought it would be proper to retain; but there were some that he entirely disapproved. As to the non-intercourse, there was no occasion for repealing it in relation to Great Britain, because it was not in force against her; and this he thought he could demonstrate at a proper time.

Mr. SAWYER said, if he had as much confidence in the efficacy of the bill as the gentleman from North Carolina, (Mr. MACON,) he should make no opposition to it; but he expected nothing from it. If, said Mr. S., we take upon ourselves a war-like attitude, and evince a disposition to be independent, we shall produce such an embarrassment that the present Ministry of Great Britain will have to treat with us or retire from power. But, if we do no more than pass such a bill as this, we shall encourage them to go on till we shall be stripped, by Orders in Council, one after another, of every vestige of commercial rights. What are we afraid of? Can any change be for the worse? Why are we afraid of going to war? Shall we not have to borrow money to pay the current expenses of the year? We should only have to do the same in war. Never was there a more favorable moment for it. By the Treaty of Vienna, England is left without a chance of gaining a footing on the Continent. If we take a manly and independent ground, we shall compel her

Ministry to respect our rights. Are we to wait for her to declare war first? If we do, we may wait forever. She will never declare it as long as she can carry it on as she does now without declaring it. Although I am opposed to a navy, yet I am desirous, when we have one, that its powers shall be exerted. If we were to send it to sea, and make a bold irruption into Canada, we might produce some effect, but never by such measures as these.

Mr. SHEFFEY said, that, not having expected this bill would so soon be called up, he had not given to it that attention which he should otherwise have done, but he had paid sufficient attention to it to conceive it worthy of consideration. It had been observed by gentlemen apparently opposed to it, that it was not sufficiently energetic on the one hand, and on the other that it would embarrass commerce. Taking it for granted, said Mr. S., that we ought to adopt a stronger measure, is that a reason why this bill should not be passed, and remain in force until our present peaceful attitude is changed? If a strong measure were to be brought forward, it would probably supersede this bill. But what, sir, is the energy of which gentlemen talk? If they want war, why do they not come forward and lay a declaration of war on the table? What are energetic measures if this be not what is meant? Let us, if it be deemed expedient, give a right to our merchants to defend themselves against England and France, but do not let us be diverted from the bill. It does not appear to me to be the sentiment of the majority of the House that we ought, at this time, to change the attitude of the country; it does not appear to be the sentiment of the Chief Magistrate. Prepare for the worst, but go no farther. This is the energy I would recommend. Make preparation, but take no steps of hostility.

Let us consider this question on the objection from the other side of the House. If gentlemen are not willing to go to war, what will they do? Or, will they do anything beyond a preparation for defence? Will they suffer the non-intercourse to remain in force? I see no disposition on any side to do this. We see that the prosperity of agriculture requires commerce. Nothing but the most imperious circumstances operating on the nation can prevent the exportation of certain products of agriculture. The non-intercourse on this account is not enforced, or is evaded. Thus situated, what is its tendency? To corrupt the people. As a measure of coercion, it is certainly a phantom; for what effects does it produce? Are not the manufacturers of England now furnished with the raw materials necessary for their fabrics, and with everything you could give them? You make the farmer and planter pay the circuitous price for European goods, whilst his produce is reduced, by the want of competition in the market, to the lowest possible price. Under these circumstances the non-intercourse, I presume, is not to be continued.

France and England, Mr. S. said, had granted us no commercial rights, and there was, there-

fore, no call for liberality towards them. The United States ought to carry on commerce, because necessary to the support of agriculture, and they ought to carry it on to the greatest advantage to their own citizens. And what then should be the course pursued? Not to destroy commerce by non-importation and non-intercourse acts, but to carry it on so that it should be beneficial to the Government in point of revenue, and to those who carried it on. What should Congress do to make it so? They ought to foster the rights of navigation. He said he would ask gentlemen to turn over the page of history and see what had tended more to promote the prosperity of England than her navigation act—an act which gave a decided preference to British navigation? The object of this bill was not only to give preference in our ports to American vessels, but it went to the entire exclusion of the vessels of Great Britain and France so long as their injurious edicts should remain in force. Mr. S. said he would state his ideas on an objection which he had understood to be made to this plan, viz: that it would operate injuriously on the farming interest, because there would be a redundancy of produce in the market—to the carriage of which the tonnage of the United States would not be equal, and that, therefore, there would be a depression in the price of produce. He presumed that a contrary effect would follow. There were abroad, he said, a number of American vessels trading, not with the United States, but between foreign ports, or engaged in circuitous voyages. Now, the direct trade would certainly be most advantageous; all the vessels thus employed would immediately return home to engage in the direct trade.

It appears to me, at all events, said Mr. S., that the bill is worthy of consideration. If energy be wanting, the passage of the bill will not preclude it, but will be continuing the existing state of things to the greatest advantage until that state is changed. If the gentleman from North Carolina (Mr. SAWYER) means raising an army and invading Canada, as he intimated, I most cordially disapprove of it. I will not alter the course we have at present taken. On the other hand I consider that we are not indebted to France or England, and therefore should not act towards them in the same spirit as if we had been fairly and justly dealt by. If they would exercise liberality to us I would act correspondently towards them. If we had received any liberality at their hands, it would be improper to exclude their vessels from our ports. But, as it is, commerce and navigation will be promoted by the bill—that commerce and navigation which must continue so long as our character of agriculturists and merchants is not converted into that of manufacturers; an event which I, for one, hope never to see. So long as this nation remains in its present state, so long ought we to give to our citizens all the advantages that can be derived from commerce. Independently of this, if anything be done, it ought to be promptly done. The merchant does not at present know to what ports to go; but, if you open to him the right to go to

France and England, your act will not only operate advantageously to him, but will augment the price of produce in the planter's hands.

Mr. BURWELL said he did not suppose that this question involved a discussion of the details of the bill, and he did not therefore rise to discuss them; but he deemed it his duty to say, that, in his opinion, the course proposed to be pursued by this bill was the proper one. It will not be denied, said he, that I have always been favorable to the system of commercial restriction, and that I have given my approbation to it so long as there was the smallest probability of its operating advantageously, and so long as the people of the United States expected good effects from this course. But I am of opinion that it has been fairly abandoned, and that any further attempt to coerce by commercial restrictions would be futile and ridiculous. I believe the present situation of the world is favorable to the assertion of our rights against one of the belligerents, viz: Great Britain. But, sir, I think that the spirit of the nation is evaporated, and we have been so long tricked by her artifices, that I despair of taking any measure of the kind at this time which would not meet with such opposition as to make it useless in effect. A single fact will suffice to awake the attention of the House to our present situation. The effect of the non-intercourse law is to sink to the lowest price the value of our produce, and to raise still higher that of articles of foreign growth or manufacture. It is a fact perfectly notorious that the country is as full of foreign articles as it has been for years past, and that the products of the Southern country have been reduced to the lowest state of depression; and when it is obvious that, so far from producing an effect abroad, the non-intercourse is not regarded at all, I ask, why persevere in it when against your own interest? My opinion is, that it should be removed; and, when removed, we shall either enjoy such a commerce as will give vent to our surplus produce, or we shall discover the true character of the edicts in force against us. If it be found that all the evils complained of, as flowing from our own Government, proceed actually from the belligerent decrees, the nation will unite in support of our fair commerce.

It will be recollected, said Mr. B., that I offered the other day a resolution calling upon the President for any information he may possess relative to the policy of the Northern Powers. It appears to me that we ought to trade to every country whose ports are open to us. To illustrate my idea, if the Powers in the North of Europe are willing to receive our productions and exchange theirs—although the British, by their Orders in Council, and the French, by their blockading decrees, may interdict our entrance—I think every American here and elsewhere would force a commerce under those circumstances, whatever may be the consequence. For my own part, as respects France and England, I confess that I think the honor of this country receives a salvo from the conduct of these nations; for such, at the present, is the unsettled state of commerce, al-

JANUARY, 1810.

American Navigation Act.

H. OF R

though we might compel them to a temporary relaxation, the same system would again be resorted to when opportunity offered. And until there shall be a reasonable prospect that justice or political morality shall be adhered to, I am clearly of opinion that we ought to go to war with neither of them, but maintain peace if possible. So long as any nation permits to us a reciprocal commerce, I am one of those who are willing to unite and force that commerce. I would not force a contraband trade, but the carriage of our own produce I would force to the utmost power of the nation.

My colleague (Mr. SHEFFEY) made some remarks on one part of the effect of the bill, viz: on the transportation of our produce, in which he was certainly correct. Our tonnage is more than competent to the transportation of all our produce; and this view does away a very strong (if correct) objection to the bill: that by restricting importation it would decrease the competition, so as to raise the price of freight and destroy the price of produce. So long as we have sufficient tonnage, this cannot take place. We shall, at least, be justified in making the experiment; and if it be found that it will foster our navigation, certainly the gentlemen from the Eastern States would not complain of a provision which gives to them an exclusive advantage; for it is perfectly immaterial to the Southern country, in point of interest, if its produce gets to market, how it gets there. I should, indeed, be surprised if Eastern gentlemen, who are so much concerned, should oppose a regulation intended exclusively for their benefit.

As for countervailing regulations being anticipated, I should presume gentlemen need not make themselves very uneasy on that score, for they already exist. Although the Orders in Council have undergone a modification somewhat favorable, yet the act of Parliament on the subject has laid a discriminating duty so great that a merchant saves the price of the freight by giving the preference to a British ship; and though the duty has been somewhat lowered, it is still so high that it is impossible for American ships to come in competition with British vessels. And let me ask, sir, when the British Government has set the example, ought we not to give a similar advantage to the American flag in our ports, to put them at least on a reciprocal footing? What I have stated are facts which cannot be controverted.

I do not suppose, however, that any regulation which we could adopt would keep the tonnage of the United States on its present respectable footing. I do not suppose any act could have that effect, because, if gentlemen will only turn their attention to the ports closed against us, they must be satisfied that our trade can never again be as extensive as it has been. It must diminish at least one-half; and it does not appear possible for us to be able to give employment to all our present tonnage.

Mr. B. concluded by saying, that he rose only to express his anxiety to see this subject acted on.

He wished to see every commercial restriction done away. After the experience which the nation would have under a trial of the system proposed by the bill, Congress would be better able to judge what course ought to be pursued; and if it were found at last absolutely necessary to the protection of our rights to take the attitude of war, he flattered himself there was still sensibility enough in the nation to point their resentment to the proper course. He hoped the Committee would persevere till they got through the bill.

Mr. SAWYER's motion for the Committee's rising was then negatived without a division. This was understood to be a peremptory decision against postponing the consideration of the bill.

The CHAIRMAN proceeded to read the fourth section of the bill, which provides "that, from and after the passing of this act, it shall not be lawful to import into the United States, or the Territories thereof, in any vessel or vessels not owned wholly by citizens of the United States, and registered according to law, any goods, wares, or merchandise, &c., from any port or place situated in Great Britain or France," &c.

Mr. LIVERMORE said he could not conceive why a discrimination was here made between registered and sea-letter vessels, as both were known to the laws of the United States. He wished some member of the committee who reported the bill to explain it.

Mr. TAYLOR observed, that, if Congress adopted the idea suggested by the gentleman from Virginia, (Mr. BURWELL,) in which he (Mr. T.) concurred, that the United States should protect their flag in its commerce with whatever nation should hold out the hand of fellowship towards us, it seemed important to the nation that they should understand for what it was they had undertaken to adopt this principle. Would gentlemen hold out the same protection to a vessel condemned and purchased by one of our citizens in a port of France or England, or to a vessel built abroad, as they would to our own registered shipping? It was, indeed, singular that gentlemen, who represented that portion of the people of the United States who were the almost exclusive ship-builders, should feel a hesitation in embracing this proposition.

Mr. QUINCY conceived that this was a proposition which more properly belonged to the Committee of Commerce and Manufactures as a permanent commercial regulation; and, indeed, he had understood that that committee had this subject under consideration. Some exception, too, ought to be made in favor of sea-letter vessels, now owned by citizens of the United States, to prevent the law having a retrospective operation.

Mr. TAYLOR said he should have no objection to an amendment which should make an exception in favor of sea-letter vessels now owned by American citizens. But if the door were left open to all sea-letter vessels, there might be persons who would be very willing to lend a cover to the ships of Britain, France, or any other nation, provided they got handsome commissions for lending the

H. or R.

Indiana Contested Election.

JANUARY, 1810.

American name. He wished not to leave room for the abuse heretofore charged upon us of covering foreign vessels with our character.

Mr. LIVERMORE moved to strike out the 4th section. His reason was that in practice no beneficial effect would be produced to our own merchants, and much injury might result. Though in theory, registered vessels of the United States were built and wholly owned by American citizens, yet in practice, registered and sea-letter vessels were in some cases equally owned by foreigners; and it was impossible by law to prevent foreigners from having a concern in them. As this section therefore would be inoperative or useless, he moved to strike it out.

Mr. LIVERMORE's motion was negatived, 24 only rising in the affirmative.

The fifth section was read. [This section provides that no goods, wares, or merchandise, whatever, being of the growth, produce, or manufacture of Great Britain or France, or any of their colonies or dependencies, shall be imported into the United States after the 15th day of April next, in any manner, from any port or place other than in the countries, colonies, or dependencies of those Powers in which such goods shall have been grown or manufactured]

Mr. CHITTENDEN, after a few remarks, moved to amend the section by adding to it a clause to the following effect:

"Provided, That nothing in this act contained shall be so construed as to prohibit the importation of salt from any port in Great Britain or France and their dependencies."

Mr. PICKMAN moved to strike out the whole section, because he conceived it utterly impossible to carry it into effect if adopted, and it did not comport with the declarations of gentlemen that they were desirous of doing away all restriction on ourselves. In case of a war between England and the Powers in the North of Europe, prize cargoes might be purchased to great advantage by our citizens in the Baltic or elsewhere; but this bill would prohibit their importation, although British goods might be scarce here, and serious inconveniences ensue from their scarcity. Whether such a traffic would be of advantage or not, it would be almost impossible to prevent it. Mr. P. mentioned an instance in which he himself had lately seen goods with French marks on a merchant's counter; and that, when expressing surprise at seeing French goods here in the present state of commerce, he had been told that they were English goods marked by the British manufacturers with French marks, with a view of facilitating their introduction into countries where the importation of British goods was not by the laws permitted. This section he also conceived would further tend to increase the practice of smuggling.

Mr. TAYLOR asked the gentleman whether the merchant, on a voyage to obtain British or French goods for the supply of his neighbors, would send to St. Petersburg, or Stockholm, or to Archangel, round the northern point of the Continent, for

these British goods, when he could get them so much less circuitously? No system which ever was adopted (said Mr. T.) could embrace extreme cases. We are now legislating to insure a good bargain to the merchant who may happen to be at St. Petersburg when a cargo is condemned. The supposition of such a case indeed is too sublimated; for, in case of such a war, the people in the north of Europe, not receiving British goods through a direct channel, would give at least as much for the prize goods as our merchants could. But, to come nearer home, let us take Amelia island, Halifax or any other port in the British Provinces. Suppose this section were struck out of the bill—what would be the consequence? Great Britain would say "you shall not enter our ports; true, we want your produce and want you to take our manufactures; the exchange is convenient to us, but you shall not have the monopoly of carrying it on; you shall not touch our ports in Europe, but we will leave Halifax open to you." Why sir, we should revert to the very state of things from which we are endeavoring to extricate ourselves. That would be the effect of striking out the section. It was the object of the committee who reported this bill so to place this system that, in the retaliation which might be made by Great Britain, if any were attempted, she should have no advantages, but should do it at her peril; that every step of retaliation should serve as a bounty to the manufacturing interest now springing up among us; that we should affect her somewhere, whatever course she should take. I do not say but there may be defects in the bill, but this is not one. It is to prevent any intermediate British port from being made the *entrepot* for the exchange of our produce for her manufactures. The same observations will apply with equal force to any commerce which may exist between this country and France. She has islands in the West Indies which might be used for the same purpose.

Mr. GARDENIER asked if it was the intention of the committee to prohibit the importation of British or French goods from neutral ports?

Mr. TAYLOR. Undoubtedly it is.

Mr. SHEFFEY remarked that this was a complicated bill, and required mature consideration. As the Committee had progressed considerably, he moved that it now rise to give an opportunity to reflect at leisure on its various provisions.

Mr. MACON said he had no objection to give time for consideration, and that the Committee should rise for that purpose. But he hoped the Committee would to-morrow again resume the subject, and decide on the bill as early as possible, as the non-intercourse law at present in existence was daily evaded.

The Committee rose, reported progress, and obtained leave to sit again.

CONTESTED ELECTION.

The House resolved itself into a Committee of the Whole on the report of the Committee of Elections, in the case of the contested election of Jonathan Jennings, the Delegate from the Terri-

JANUARY, 1810.

American Navigation Act.

H. OF R.

tory of Indiana; and, after some time spent therein, the Committee rose, and reported to the House their agreement to the resolution therein contained, in the words following, to wit:

Resolved, That the election held for a Delegate to Congress for the Indiana Territory, on the 22d May, 1809, being without authority of law, is void; and consequently the seat of Jonathan Jennings, as a Delegate for that Territory, hereby declared to be vacant.

The House proceeded to consider the report of the Committee of the Whole; when an adjournment was called for, and carried.

—

TUESDAY, January 9.

On motion of Mr. WHITMAN,

Resolved, That a committee be appointed to inquire into the expediency of altering the times for holding the two terms of the district court for the district of Maine, now by law holden on the last Tuesday of May and the first Tuesday of September; so that the former shall hereafter be holden on the fourth Tuesday of June, and the latter on the second Tuesday of September; and that the committee have leave to report by bill or otherwise.

Ordered, That Mr. WHITMAN, Mr. HUFFY, and Mr. SHEFFEY, be appointed a committee, pursuant to the said resolution.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting his report made in obedience to the act of the 21st of April, 1808, entitled "An act concerning public contracts;" which was read, and ordered to lie on the table.

An engrossed bill to revive and continue in force, for a further time, the first section of an act, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read the third time, and passed.

The House proceeded to consider the unfinished business of yesterday, respecting the contested election of Jonathan Jennings; when, on motion of Mr. GHOLSON, the further consideration of the report was postponed until to-morrow.

AMERICAN NAVIGATION ACT.

The House again resolved itself into a Committee of the Whole, on the bill concerning commercial intercourse with Great Britain and France, and their dependencies, and for other purposes. Mr. PICKMAN's motion yet under consideration.

Messrs. PICKMAN, LIVERMORE, POTTER, and ROSS, supported, and Messrs. MACON, FISK, SHEFFEY, and TAYLOR, opposed the motion.

Those who supported the motion contended that the 5th section of the bill, having for its object the prohibition of the importation from neutral countries of goods, the produce or manufacture of France or England, and also the importation from the colonies of the belligerents of the produce or manufacture of the mother countries, and *vice versa*, was inexpedient in practice, and could not be executed; that it would be impossible to distinguish between the productions of different countries; that it was a notorious fact

that large quantities of produce were daily imported through St. Bartholomew's, which, being a small island, it was known was not capable of producing the quantities of produce exported from it—but that it was and always would be impossible to distinguish between the produce of that island and those contiguous to it; that salt, for example, was an article, the place of manufacture of which could never be ascertained; that this section would in this respect possess the inconveniences of the non-intercourse law; as it could not be carried into execution; that if one belligerent, viz: Great Britain, were to rescind its decrees, and intercourse was to be renewed with the nation so doing, the produce of the colonies of France might be innocently purchased at British ports as the produce of the latter; that there were certain articles of English manufacture, viz: low priced woollens, which were almost necessities of life, and as such would find their way into the country; that this section was at war with the other principles of the bill, which were said to be to remove the restrictions from our own citizens and impose them on the citizens of France and Great Britain; that many evils would result from this section which could not now be foreseen. It was also said that the principle of regulating commerce on the ocean by such provisions was absurd; that it would be curious to hear of Louis XVIII. issuing decrees for the Government of France, which would be food for laughter for Napoleon; that we should act equally absurdly in passing such provisions as these which could not prove effectual; that the whole bill might be a pretty thing in theory, like the plan of a building or chart of a road—but, when reduced to practice, would amount to nothing.

To this it was replied by the opponents of the motion for striking out the 5th section, that the whole bill might not be perfect, or might not comprehend such a system as in a different state of the country and of the world ought to be adopted; that the great objection to the first sections of the bill had been that their provisions would probably be met by a countervailing policy on the part of the belligerents which might be carried into effect in two ways—by restrictive regulations, or by additional duties; that this 5th section had been incorporated in the bill for the express purpose of meeting the first mode of retaliation, and of keeping the carriage of our produce in the hands of our own merchants exclusively; that if the importation of the manufactures of Great Britain was permitted from any port whatever of her dependencies, she, having Canada, Nova Scotia, and her West India islands, would exclude our vessels from England, send her manufactures to those colonies, throw the whole carriage into the hands of the British merchant, and compel our merchants to become mere coasters; that the effect of this section would be, that she might send as many of her manufactures as she pleased to her colonies, but that they could not be imported here; that if this section could not be executed, the United States would be just in the situation in which they now are with the non-in-

tercourse law, and the question would then come before them either to declare war or relax even from this measure; that a subsequent section of the bill made provisions for the execution of the 5th; that there was no doubt however but this law would be better executed than the non-intercourse law, because it would not be the interest of the merchant to violate it; that the argument for striking out the section, because it possibly might be violated, would be equally strong if urged as a motive for the abolition of all our revenue laws, because they made a difference in duty on articles exported from different places; that, although some articles could not be identified with the places of their growth or manufacture, yet nineteen-twentieths could; that if the section were to be struck out, the bill itself should be rejected, for it would then be a milk and water measure indeed; and if the bill were to pass without it, all the commerce of the United States would be thrown into the hands of Great Britain, as well as all the profit derived from the transportation of it.

In the debate on this motion were mingled many general remarks and observations on the principle of the bill.

Mr. SEYBERT.—Mr. Chairman, I am unaccustomed to public speaking, and, therefore, reluctantly lay before this honorable Committee the sentiments and opinions which I entertain on the bill now under discussion. My duty impels me to exhibit to the American people in general, and to my constituents in particular, the principles which actuate and govern my decisions as one of the representatives of the people. I hope the Committee will indulge me for a few moments with their attention.

It cannot be denied that all the commercial regulations of the United States materially affect the district which I have the honor to represent in this assembly. It would be a useless task to detail the extent of the commerce of the city of Philadelphia, it is well known in all parts of the civilized world; from that port the American flag has proceeded to the remotest regions. I do acknowledge that the city of Philadelphia, in common with every part of the United States, owes much of its prosperity to commerce; from this circumstance it may be inferred that I should on all occasions, and at all hazards, step forth as one of the champions of any commercial system which, in the least of its features, bore a semblance in favor of mercantile interest. To this I answer, sir, that every vote which I shall give in this House shall be pronounced upon principles which I can reconcile to my judgment, and which my reason shall proclaim to me to be right. I consider the lucre gained by commerce or any other branch of industry, as sordid and beneath the dignity of freemen, when it is to be obtained at the expense of national honor and sovereignty. Whenever, sir, I can support any commercial regulation of an opposite tendency, it shall receive my warmest approbation. I maintain the doctrine that "the only sure foundation of commercial prosperity, is national independence and

civil liberty." These sentiments, if I mistake not, comport with the true character of a republican legislator, and they are generally adopted by the friends of my country. It is proper that the provisions in the bill should now be examined; for this purpose I will take a review of such sections of it as seem to me to be connected with the great principle in question.

In the 5th section of this bill its most prominent features are apparent. As this section is now under consideration, I will proceed to state the view which I have conceived of the system contemplated by the bill.

By the 5th section a direct trade between the American States and Britain and her dependencies, and also a direct trade with France and her dependencies, is declared to be admissible, provided that said trade shall be carried on in vessels wholly owned by American citizens.

The 9th section contains a revoking clause, which, in case Great Britain and France or either of them shall rescind the restrictions which they have respectively laid upon our commerce, enables the President to make void the condition contained in the 5th section, whereby the necessity of the vessels being wholly American, in which such trade is carried on, is done away; so that the vessels of either nation so rescinding may freely enter our ports and harbors, with or without cargoes, as was the case before such restrictions were laid.

What will this nation gain by the passing of this bill? Or, rather let me ask, what shall we lose by such proceedings? I could readily answer this question, by declaring it as my opinion, that the act itself would be a direct submission to the views and interests of one of the great belligerent Powers—I mean Great Britain. In fact, we should thereby prostrate the national sovereignty. Whether we enrich England, at the expense of our neglected industry, is a matter of small consideration. But when we do it at the expense of our sovereignty, it is a blow which divides the roots—the tree falls never to rise again. Any gain to this nation which the supporters of this bill can assert to be the consequence of its passage, is entirely imaginary. A pretended advantage is that of confining the trade to our own vessels. This is mere pretence; for it is well known that British agents themselves do now, and ever will give a preference to a trade with our ships as long as there is a discriminating duty in their favor. The doctrine of the British is, bring your raw materials and take away our manufactures. It would be well enough, if both England and France would agree to the terms therein expressed; but is it probable that they will? I, for my part, think they will not. What change of measures has taken place in the European councils to induce this change in our commercial system? It may be just to remark that I am no advocate for the present non-intercourse law; for I believe it to be worse than nothing. But, will the passage of the bill in question make things better? I think it will not. Have Britain and France become

JANUARY, 1810.

American Navigation Act.

H. OF R.

more just as respects our commercial rights? Can we persuade ourselves that Great Britain will permit our vessels to pass to the Continent unmolested? Again, what assurances have we that the vessels and cargoes which might arrive in France will be received and respected? This is inconceivable to me, and must only be the reverie of a fertile imagination. Past experience should prove to us the delusion of such a doctrine; we cannot deduce such inferences from the data, detailed in the letters of Jackson and Champagny, as communicated to us in the President's Message of November last.

That Great Britain will not permit the operation of this bill, as respects the Continent of Europe, must be evident to every reflecting mind who will take the pains to collect the facts detailed in the debates of the House of Commons prior to our independence; she evinced an hostility to the progress of these States, as respects her commerce and manufactures, as early as the year 1763. It is unnecessary for me to relate the particular restrictions; they may be seen by referring to Parliamentary debates, vol. 28, p. 207. I will also refer you to the questions proposed to the celebrated Franklin by the British House of Commons; the questions prove the uneasiness of the Government, fearing that we should meet with success in our manufactures, and the answers do immortal honor to the American patriot. At this period it was a popular sentiment in Great Britain, concerning these States, then colonies, "that everything was to be dreaded from their increase of population and skill in agriculture, the arts, and manufactures." As early as the year 1750, the British Parliament enacted, that no slitting mill or forge, or any iron works, should be established in America. The British have ever been desirous to keep us in the "gristle," and were intent upon preventing our ever hardening into manhood. They always entertained views equally hostile towards Ireland; and their system of oppression is continued, although they have incorporated Ireland as a part of the British empire. Can we for a moment suppose that she now will favor our commercial intercourse? We cannot for a moment allow that Great Britain will admit our communication with the Continent of Europe, unless under her infernal system of granting a license to trade. Permit me to take a short review of the principles and practice adopted on these occasions. How ill-founded in principle to carry on a trade with nations with whom they are at war, and to interdict the same trade to neutrals, unless they act under a special license! This is in direct proof that "self-interest is, among nations, certainly the great moving principle; no national measure, perhaps, is, at any time, the result of pure generosity or good will." Forged papers are issued, and vessels arrive from one European port in another, in the course of a few days, as if they had been carried by magic influence across the wide spreading waters of the ocean, from the United States. Can we, for a moment, think of a submission like this? Our national sovereignty is thereby relin-

quished; we are degraded beneath the rank of colonies; nevertheless, some of our merchants, who pretend to reputation and character, do not hesitate to accede to the terms of this diabolical system of oppression. Under a state of things like this, who can pretend that "virtue is honored, and vice always detested," or that, as republican citizens, "we fear blame more than punishment?" Facts have lately been published which prove to what extent this fraud on nations is carried in Britain. I will call to your recollection the case of "the Good Hope, a neutral vessel, laden with brandy and bound from Rochelle to Hull; she was captured and sent into England; she was tried on the 7th of November last before the British Admiralty Court; her license had expired, but Sir William Scott observed, that under the obstructions existing in respect to the commerce of England, the most liberal construction should be given to the licenses. She was therefore restored, paying the captor's expenses." The *Mercury*, under similar circumstances, was tried at the same time, and was restored with freight and expenses. What American who has ever heard of the spirit of 1776, would not resist such infringements of neutral rights, and such violations of sovereignty? This state of things reminds me of the answer made by Anacharsis to Solon, when he conversed with him about his intended reformation in the State: "Alas!" said he, "all your laws will be found to resemble spider webs; the weak and small flies will be caught, and entangled, but the great and powerful will always have strength enough to break through." Should this bill finally pass this House, I think we may reasonably conclude that the following will certainly be some of the consequences of its adoption.

Our sovereignty being thus prostrated, the lion, once laid low, will resume his dominion, and triumphantly tyrannize over all mankind. The banners of Britain, with her system of oppression, will be carried from pole to pole; her former restless colonies will not pass unobserved. Let me ask, would it not be more becoming the dignity of a weak nation, by a voluntary offer on her part, to reassume her former secondary character? We might then have some pretensions to the protection and mercy of our ancient parent State; nay, we might deceive the world, by declaring that it was the wish of the majority of the sovereign people.

The passage of this bill will certainly lead to a war with one or both of the great belligerent Powers of Europe, for, according to the Orders in Council, we dare not trade with France and her dependencies; according to the decrees of France, we dare not trade with Great Britain and her dependencies. This bill admits of a trade with both Powers, under the restriction, that it is done by means of vessels wholly American. Since neither of the belligerents will rescind their orders or decrees to enforce a law founded on this bill, we must permit our merchantmen to arm for their defence; the consequence of which will be resistance to attacks from either bellige-

H. OF R.

American Navigation Act.

JANUARY, 1810.

rent. Thus shall we be led to hostilities with both of them. I am opposed to this system. It is well for us to avoid a contest with either of them, and far better to avoid it with both.

If we are to adopt a preference in favor of one or other of the belligerents, since they will not act upon fair principles themselves, it is proper that we should take a fair view of the American commerce carried on with Great Britain, and that with the Continent of Europe. It is of moment to determine which of the two is the most advantageous to the United States. This can only be answered by taking a correct view of the extent and importance of each, as shall be demonstrated by a reference to the amount of our exports and imports to and from each of those countries. We will now proceed to this investigation; it shall be founded upon the official reports of the Secretary of the Treasury. I will take the calculations for three years—1802, 1803, and 1804.

In the year 1802, domestic produce was exported to
Europe to the amount of - - - \$36,180,000
Foreign articles exported same year - 35,775,000

Total amount of exports from the United
States for 1802 - - - - \$71,955,000

In the year 1803, domestic articles were exported from
the United States amounting to - \$42,135,000
Foreign articles exported same year - 13,594,000

Total amount of exports for 1803 - \$55,729,000

Amount of domestic articles exported from the United
States to Europe in 1804 - - - \$41,470,000
Foreign articles exported same year - 36,230,000

Total exports for 1804 - - - - \$77,700,000

Of our domestic articles in the year 1802, Great Brit-
ain received in amount - - - \$19,014,943
Foreign articles - - - - 4,910,148

Amount total for 1802 received by Great
Britain - - - - - \$23,925,091

In 1803, Great Britain received of domestic articles
\$23,597,903
Foreign - - - - - 1,771,170

Total for 1803 - - - - - \$25,369,073

In 1804, Great Britain received domestic articles to
the value of - - - - - \$19,346,517
Foreign - - - - - 2,488,285

Total for 1804 - - - - - \$21,829,802

Deducting the amount of exports, both domestic and
foreign, which Great Britain receives of the United
States, from the amount total of exports, made to
Europe, we shall find the balance in favor of the
Continent as follows:

For the year 1802 - - - - \$48,029,909
1803 - - - - 30,359,927
1804 - - - - 55,870,118

So that, if a trade had been carried on with Great Britain, and that with the Continent had been relinquished for the three years mentioned, we should have sustained the enormous loss of profit, arising on the exports, of \$134,229,954. This, at ten per cent., would amount to very little less than \$14,000,000—nearly \$5,000,000 per annum. It might also be further remarked, that many shipments made to English ports do not remain in Great Britain, they are frequently consigned to a market on the Continent, the arrangement being an accommodation to the convenience of commerce. This would considerably lessen the amount of British commerce with the United States. All our exports to the Continent remain and are consumed there.

Independent of the amount, we may try this question in another way; we furnish England with raw materials necessary to her existence; she returns to us those materials manufactured; thus she derives a considerable profit on her industry, amounting to a balance of \$14,000,000 annually against the United States, according to the most favorable calculations. We might ourselves, if we pursued a proper system, save all this to the State, and thus should we be more happy and independent. There are two ways of effecting this great purpose—first, either by our abandoning such articles as are not necessary to the comforts of civilized life, of which there are many; and, secondly, by an application of the industry of our fellow-citizens to such raw materials as are usually shipped to England. To this last I should give the preference, and we must one day or other resort to it if we wish to retain our national sovereignty. All writers and all nations consider a system of national industry, properly directed, as the true source of national wealth and power. In proportion as we are industrious, so are we happy. Man, naturally prone to idleness, is too apt to indulge, and thus to fall into apathy ill becoming his nature. By rousing our national spirit, and exercising our industry at home, we shall be led to an investigation of our internal resources, the extent of which we are as yet unacquainted with; the importance of which can only be deduced by the utility and extensive application made of such as are already known. A single article from these States has been known to confirm the reputation and fortune of individuals of the British nation; nay, they have been deemed objects worthy the attention of the Parliament. Situated as we are, I am astonished when I hear it so frequently reverberated from the walls of the Capitol, that our Treasury is exhausted, and that the nation must suffer a natural death for the want of resources. Providence has been bountiful in giving us an over proportion of the most valuable articles which nature can furnish to man, to supply his necessities, and to defend himself in times of danger. We have been negligent of them, while Europeans dispatch persons to investigate the regions of North America. Our immense forests will furnish timber for ship building, and every other purpose; our iron mines are inexhaustible,

JANUARY, 1810.

American Navigation Act.

H. OF R.

and, according to an intelligent writer, "iron mines seem to be put into men's hands as the instruments of their own independence;" our beds of mineral coal are not yet sufficiently traced, and coal has been emphatically termed "the soul and mainspring of British wealth." It would be an endless task to recount what we have. I ask you to tell me what useful productions we have not?

Our population is already considerable, and the genius diffused through it stands unrivalled by foreign competitors. The true spirit of liberty, founded upon wisdom and principles of sound policy, will lead the persecuted to come to us from abroad, and the mildness and equality of our laws will confirm them in the just rights of men, by securing to them every blessing which civil liberty, and the application of their industry, can furnish. This subject is inexhaustible; to the nation it is all important. I was led astray by the magnitude of the object, and ask of you pardon for this aberration. Upon the internal resources are based the glory, the happiness, the prosperity, and, above all, the independence of my country. This is my apology for the digression. I shall vote against the bill. It was my intention to have taken a minute view of the tendency of each of the sections of this bill. This, I concluded, was unnecessary, as in my opinion its provisions, under existing circumstances, cannot be carried into operation. Therefore, I have directed my attention to the general principle upon which it is founded; and this cannot be put into practice. Why, then, shall we pass a bill which cannot be carried into operation?

Mr. ROSS viewed it in the same light. He said it was a truth to which gentlemen shut their eyes, but of which they as well as the people would be if they were not now convinced that nothing short of actual force could give protection to commerce. Instead of such a milk and water measure he wished to see a provision authorizing the President to fit out the whole Navy of the United States and send it to sea, and authorizing the merchants to arm in defence of their lawful commerce.

Mr. POTTER was decidedly opposed to the bill; he conceived it would produce in practice a complete embargo and non-intercourse.

Mr. SHEFFEY thought it the best measure which, under the present circumstances, could be adopted, and pledged himself at the proper time to prove it.

Mr. FISK remarked that the Committee of Foreign Relations, in performing its duty, had by no means prevented the adoption of any measures which the Army or Navy committee might think proper to recommend.

Mr. LIVERMORE repeated his idea, expressed yesterday, that the non-intercourse law was not now in force as to Great Britain; because it had been legally suspended, and could not be renewed without legislative sanction. He did not blame the President for having issued the proclamation of the 9th August, for it was certainly proper that the fact of the non-ratification of the arrangement

should be known to all, that they might govern themselves accordingly.

The Committee rose at a little past 4 o'clock, without taking a question on Mr. PICKMAN's motion, reported progress, and obtained leave to sit again.

WEDNESDAY, January 10.

Mr. VAN HORN presented a petition of sundry inhabitants of the City of Washington, praying that an act may be passed directing the Marshal for the District of Columbia to receive and take into his custody the bodies of persons taken in execution of writs of *capias ad satisfaciendum*, issued on judgments rendered by a single magistrate, in cases where the judgment should not exceed twenty dollars.—Referred to the Committee for the District of Columbia.

AMERICAN NAVIGATION ACT.

The House again resolved itself into a Committee of the Whole, on the bill concerning commercial intercourse with Great Britain and France. The motion for striking out the 5th section yet under consideration.

Mr. MONTGOMERY said, that upon a question of so much national importance as that immediately under consideration, he could not reconcile it to his feelings or his sense of duty to give a mere vote, and not to give his views of the subject. The motion to strike out the section involved in his opinion the whole merits of the bill, and on motions of this kind, so broad in their effects, a latitude had been allowed to gentlemen, and they were permitted to take wide range, and consider all the principles contained in the bill. He should, concisely, take this course. My opinion, said he, is that the more deliberately and fully the principles of the bill shall be investigated, and its bearings understood, the more it will be found conformable to the Message of the President, protective of the honor of the nation, and promotive of its commercial interests.

At the commencement of the present session we received a Message from the President. Examine the ground taken in the Message, and particularly that part of it referred to the Committee of Foreign Relations, and compare it with the principles of the bill, and it will be found that the one is strictly conformable with the other. The President informed us he had broken off all further communication with Francis James Jackson, the British Minister, in consequence of his insolent and intolerant conduct, but that he had left the way still open for the negotiation through any other organ; that he was still ready to receive communications through any other less offensive accredited person, who should conduct himself with proper decorum and decency. This certainly is not a war stand. The President, like his predecessor, is for keeping the door still open for amicable adjustment of our differences with the belligerents, and avoiding a state of war as long as is consistent with national honor. This is the policy adopted in the Message, and there is

H. of R.

American Navigation Act.

JANUARY, 1810.

nothing in the bill inconsistent with this policy. Again: the President states, in his Message, the difficulty, nay, almost the impracticability of enforcing the non-intercourse law; but it certainly cannot be considered from any part of the Message that, in the event of the repeal of the non-intercourse there is nothing to be substituted. To carry on negotiation, and to aid it, this bill has been thought proper to be introduced. Our commerce has been attacked by French decrees and British orders. This bill proposes resistance, and a determination that, in defiance of these decrees and orders, we will have commerce.

The first great question to be negotiated between Great Britain and the United States is the outrage on the Chesapeake. The honor of the nation is most materially involved in this atrocious act. I ask gentlemen if they are prepared to abandon entirely all idea of reparation for this base, cowardly, and murderous attack? If not, they must give their consent to the first and second sections of the bill, because they have an entire and intimate connexion with that affair. When that infamous outrage was committed, what was the measure promptly adopted by the then President? To interdict, by proclamation, the armed vessels of the British from entering our waters. When Mr. Rose came here he made it, at first, a *sine qua non* that the proclamation should be suspended before reparation should be made; but, afterwards, he did consent that the withdrawing the proclamation and the reparation should be contemporaneous, provided our Government would first, as a reparation due to the British nation, make a degrading concession for the molestation of the boats at Hampton, and should further, basely concede that the men taken out of the Chesapeake were British deserters. These disgraceful concessions our Executive would not, nay, could not make. Of course, the negotiation was broken off, and Mr. Rose returned, as it must have been originally designed by the British Ministry he should, without making any atonement. Reparation is then offered in the arrangement with Mr. Erskine. That act is disavowed, and at this moment atonement remains to be made. Congress, after the arrangement with Mr. E., by a law of last session, under a full confidence that England would not be guilty of a violation of faith, which has few parallels in history, withdrew the interdiction. As we are precisely in the situation with regard to the affair of the Chesapeake, we were in at the time of the issuing of the proclamation of the President, the first and second sections of the bill then propose to put the country in the precise state it was in at the time prior to the arrangement with Mr. Erskine. But it not only restores that state of things, but is precautionary as to the future. It has been well observed, sir, that if these sections are stricken out, and British vessels permitted to enter our waters, they would come into our ports before our towns without resistance. If entrance into our waters be interdicted, their very approach may be rendered more difficult, and by resistance prevented altogether. We are all well aware that

the *Copenhagen firebrand* is still among us, enjoying Anglo-American hospitality. Were we to strike out the first and second sections of the bill, in this view of the subject, our seaports might be endangered. I, therefore, consider the first and second sections of the bill important in relation to the affair of the Chesapeake; and, also, as a precautionary measure with relation to the safety of our seaports, and as it regards too the honor of the nation.

With respect to the third section, and all the other sections to the ninth, including the section proposed to be stricken out, the policy of their provisions will be evident by a fair investigation of the subject. To obtain a regard to our neutral rights, and to resist the French decrees and British orders, which, under pretext of retaliation, proclaimed in effect to the world, that there should be no neutrals and no neutral rights, the embargo was resorted to as a coercive measure; and I have no hesitation in declaring my opinion, that but for English emissaries, factious intrigues, and the want of virtue demonstrated among that class of citizens whom it was designed to protect, it would have effected its intended object. What was the operation of it? Its great principle was non-exportation. The provisions necessary to carry it into effect operated upon our own citizens. From the unmerited clamors against it, and from the causes I have stated, it was abandoned. Non-intercourse was substituted, its great principle being non-importation. It was taken instead of an absolute repeal of the embargo, which was then, from the complexion of the House, seriously apprehended, which, by many, was considered absolute submission, and the non-intercourse still held up resistance such as it was. Gentlemen well know the unpleasant circumstances under which it was resorted to. In consequence of the difficulty of carrying its provisions into effect, and the scandalous evasions practised under it, it has become in a great degree inoperative. In the present state of things, the carrying trade is principally thrown into the hands of the British, through Amelia island, Halifax, and other places of depot, and thence smuggled into the country. Where, then, does the American merchant go to obtain British manufactures? Not to England, but to those entry-ports. Through these, too, British vessels have the carriage of all your produce. In fact, England, by the evasions practised under your laws, has nearly a monopoly of your carrying trade. Facts bear me out in this statement. I have seen a letter from a person of confidence, stating that, at Amelia island alone, at this very moment, there are one hundred British vessels, and the produce of the United States is strewed along the shores for exportation in them, and that large contracts have been entered into by American merchants to supply British vessels with the produce of the United States. The American carrier derives no advantage but the carriage to Amelia island. It is thence carried to Europe in British bottoms. I ask gentlemen if this state of things can or ought to be tolerated? If gentlemen are prepared to

JANUARY, 1810.

American Navigation Act.

H. OF R.

say that American produce shall be carried to Amelia island and there deposited, and thence shall be carried in British vessels, exclusively, to a foreign market; and that the farmer shall sell his produce subject to a deduction for double freight and double charges, and that the British merchant shall have the benefit of the exportation of our products; they will vote for striking out the sections in the bill, which cut up this abominable trade.

Gentlemen have asked what good is to result from this section. One great good will be its cutting up this trade entirely. By the fifth section, no articles the growth, produce, or manufacture of any foreign nation, can be imported into the United States, except immediately from the country where it is grown. The bill classifies foreign countries, and prohibits the importation from any one class of any articles which are not of the growth, produce, or manufacture, of that class. If this section remains, you cannot import from Amelia island any article of British manufacture, for it would be liable to seizure. But gentlemen may say that British goods are now liable to seizure, and yet find their way into the country. But, sir, the embargo and non-intercourse differed from the present bill in this respect. The embargo and non-intercourse operated on your own citizens, and the feelings of our citizens were excited in favor of their fellow-citizens, violators of the laws. The great principle of the present law is, that it is to operate on foreigners. There are in the bill no penalties and forfeitures; nothing but condemnation of vessel and cargo. And I call upon gentlemen to name one instance where a foreign vessel has been arrested in the violation of the laws of the United States, that a condemnation has not taken place. The Admiralty Courts of the United States have uniformly enforced our laws, and will do it still. These cases are not tried by a jury, but wholly by a judge, who has power to sift a case to the bottom; and, the violation being proved, a condemnation takes place. Foreigners only can be sufferers by the bill. The courts can be trusted with enforcing the laws of the United States, and every infraction of this law will be punished by them. They are and will be competent to it.

From this view of the subject, it is very apparent that this law will operate on a trade disgraceful to those carrying it on, and disgraceful to our country. If it have no other good effect, it will remedy the evil under which we now labor.

But, sir, the provisions of this bill are calculated to give to our citizens the whole carrying trade of the products of the United States, and the import of all the articles that are useful to the United States. Under the embargo we had no commerce; under the non-intercourse law, the restrictions are such as to prevent our commerce from having a full range. The object of this bill is to give to our fellow-citizens the exclusive monopoly of the carrying trade, and of bringing every necessary into the United States. We take the strong ground not only that we will have

commerce, but that we will have it solely and exclusively to ourselves.

Sir, I do not mean, nor can it be meant by other gentlemen, that we should stop here. We will, as I have said, have commerce, and a monopoly of it. We will, also, if necessary, take a further step. After determining and resolving to have commerce, I will agree to force it. How to force it? Some say by convoy, and some say by arming our merchant vessels. I shall, after the determination to have commerce, be ready to determine to use arms in support of it, and to give our merchants also power to arm. Commit yourself to have commerce, sir, and you must go further. You must protect it by convoy, by arming your merchantmen, by any way ingenuity can devise. This is but one great step in the system. We are to determine and proclaim to the American people that we will have commerce. If it be considered that that commerce will be in danger, it is for the wisdom of Congress to point out a remedy or a means of enforcing our right to it.

The motion now before the House involves, in my opinion, a question of the last moment to the interests of the United States, and as such I approach it with great seriousness. I do conceive that the motion now before the Committee involves the question, whether the Congress of the United States will abandon commerce. I have no hesitation in saying and believing, and when I examine it I believe I can convince the House, that this question is not propounded too broadly. Pass the twelfth section of this bill, repeal the non-intercourse, and then stop; have no substitute. I have heard no gentleman propose a substitute. If you stop there, you sacrifice the best interests of the country, abandon all commerce, consent to give up the ocean, and there is an end to any attempts hereafter to restore commerce to any kind of consequence whatever. The consequence will be this: England will not pass a law or issue Orders in Council to shut her ports against you. No, sir. She is well skilled in all commercial matters, and in adopting measures to promote her own commerce and shackle the commerce of the world. We know it from woful experience. What will be the course she will pursue? What is she now in the enjoyment of? The carrying trade of all your commerce to and from your coasts. Will she abandon it? No, sir. Will she, if you repeal the non-intercourse, suffer you to enjoy one particle of trade more than you have now? She will not. What will suggest itself to them to secure the present state of things which they now enjoy and will not abandon? When you repeal the non-intercourse, she will enact discriminating duties; she will exclude your vessels from participation in trade. The prices in Europe for American produce will not bear any advance at all, so as to be exported subject to a discriminating duty. You would cut off from the citizens of the United States the carrying of their own produce. I ask gentlemen if this be an extreme case? if it be not substantial ground? If she does not shut her ports against you, she can resort to as effectual a measure.

H. OF R.

American Navigation Act.

JANUARY, 1810.

She has a right to lay discriminating duties, and will exercise it.

But gentlemen say, pass this law, retaining the fifth section, and England will pass countervailing acts. What, sir, will be their operation? By the sections of this bill, all British vessels are precluded from coming into the ports and harbors of the United States. No vessel, unless owned by a citizen of the United States, is to be at liberty to import any goods, wares, or merchandise, into the United States. The British built and American naturalized vessels are equally excluded. England shuts up her ports. What will be the operation of the measure? American vessels are excluded from the ports of Great Britain. Then how is England to obtain her raw materials, as no English vessel can enter our ports? But, if this plan should be followed by Great Britain, a complete embargo and non-intercourse will be produced. Agreed, sir. Will it affect the United States alone? No, sir; it will operate with more than equal force upon Great Britain. She will, by her own act, create an embargo and non-intercourse on her own citizens. She is shut out from all direct trade with the Continent; she will be, if this bill pass, shut out from all trade with America in her own vessels. The effect will be that, if she produces an embargo and non-intercourse upon our citizens by her countervailing acts, she produces it upon the British nation also. If she does, her citizens have been supplied most abundantly with the raw materials, and are still importing them. When manufactured, they must remain in the warehouses of her manufacturers. This will bring upon her a distress at least equal to anything that we shall feel from a state of non-intercourse, and her citizens will not bear it. I have, therefore, no apprehension that the British will pass countervailing acts. The manufacturer cares not what vessel carries his goods to market; but let the British pass countervailing acts, and no vessel whatever can carry them to market. He will have no vent for his fabrics. He cannot export them to this country in British vessels, because they are prohibited from entry; nor in American vessels, because they will not be permitted to enter British ports; nor circuitously, because the fifth section of this bill cuts up any such trade.

This, sir, is the view which I have taken of the principles of this bill; but I have no hesitation in saying, that in the present posture of our affairs, if this were the only measure contemplated to be brought forward, I should be among the discontents. I should conceive that Congress were abandoning the rights of the people and their independence. The Committee of Foreign Relations, however, have discharged their duty according to the extent of their powers; they could do no more; they have acted on the subject referred to them. But they are not the only committee to whom the welfare, safety, and independence, of the nation are intrusted. There are other committees which have important subjects before them. Sir, I am in favor of the adoption of this bill with a view to commercial regula-

tions; but I hope and trust we shall not stop here. I hope that we shall take up the late Message of the President and adopt precautionary military measures, and take further steps. We have already before us a resolution from the Military Committee, which is another link in the great chain.

Mr. Jackson has been dismissed by our Government. A question will present itself to the British Government whether they will support or disapprove his conduct. Sir, I am one of those who firmly believe that the insults of Mr. Jackson were not generated in the City of Washington, but that they were premeditated; that he has acted according to instructions; that the ground he has taken was examined before he left England, and his instructions framed accordingly. If that was premeditated, and we do anticipate a state of things hostile to us, we are then to adopt precautionary military measures, to anticipate what will be the result of this great question. If the British Ministry support Mr. Jackson, they will go further; and if they do, I call upon gentlemen to know whether it would not be a dereliction of duty not to prepare for it. I am gratified to find, by looking over the reports of the Secretary of War, at the session after the affair of the Chesapeake, that we are provided with muskets, powder, saltpetre, and every species of military stores for a three years' war, if necessary, and that the only thing wanting is men. And when they are authorized to be raised, and other precautionary measures adopted, I, as an American citizen, shall sit down perfectly at ease as to any state of things which the Spring season may present.

I have thought proper to trouble the Committee with these observations. I come here to act, and not to make speeches, because I consider that our situation calls loudly for acts, and that speeches may be dispensed with; but, on this important question, I have thought it my duty to say thus much.

Mr. SMILIE said he had given all the attention which he was capable of to this debate, and he had at least been able to discover what were the views of different sides of the House. One set of gentlemen, it appears to me (said Mr. S.,) perfectly consistent with all their past conduct, is for doing nothing, but for leaving our trade to roam at large and take its chance. Whether those gentlemen have the same feeling as myself with respect to our injuries, I do not pretend to say; but their opinions have been uniform, and I dare say may be honest. There is another set of gentlemen in this House who are for what they call energetic measures. A third set, which I believe I may denominate the moderate party, is for pursuing measures different from either—I mean those in favor of the present bill. Why, sir, cannot those gentlemen who are in favor of energetic measures agree with those who are for pursuing moderate measures, which they only consider beginning our opposition, depending upon us for hereafter adopting measures which in their opinion may comport with the interests of the nation? They may rest assured that they will not get at their

JANUARY, 1810.

American Navigation Act.

H. OF R.

object by joining in opposition to the bill with those who are for doing nothing. As to energetic measures, sir, I really am surprised to hear gentlemen now talk of them. If they mean a declaration of war, no one of them pretends to bring forward such a measure. They are well aware that a motion for a declaration of war under present circumstances would not pass this House. I do not know, sir, what may be the opinion of other gentlemen, but I for one do not mean to stop here. We are now upon a part of the business which will carry us safe at least as far as respects commercial regulations. The House seems to be pretty generally agreed that we should interdict our waters to foreign armed vessels, and also as to getting rid of the non-intercourse law. If the clause now under consideration were to be struck out, there would be an end to all commercial regulation. If gentlemen wish for any commercial regulations, they certainly wish to retain this clause.

I will observe, sir, with respect to war, in my opinion it would be a preposterous measure in Congress at this time to go into it. The President of the United States has dismissed Jackson for his misconduct, but has nevertheless declared that he is still willing to negotiate with any other agent who may be sent out. Now how would a declaration of war by Congress comport with this transaction? No man could seriously think it proper that the Executive and Legislature should run counter to each other. At all events, before a step is taken to produce a war, we ought to wait till we hear what step the British nation has thought proper to take in consequence of the dismissal of their Minister. I ask again of gentlemen who are for energetic measures, whether they had rather rely upon the friends of this bill than upon that class who are for doing nothing at all? I mean no reflections upon them, for no doubt they think they are right; but surely we that are for doing something are rather to be depended on for doing something better, than those who are for doing nothing. At the same time, sir, I am willing to declare that I am not yet ripe for war. I have my fears on the subject, and wish that before this business is settled we may not be under the necessity of terminating it by that expedient. I still, however, have hopes that we will not. Two questions are to be decided before we go to war. 1. Whether we have cause for war? That question, I believe, all would answer in the affirmative. 2. Supposing that we have just cause of war, whether it would be the interest of the nation to go to war? As I do not believe it would, sir, I confess I am in favor of the measure now under consideration. If we do not agree on this bill, I see that the House is divided into three parties and will do nothing.

Mr. PORTER.—It has been observed by the gentleman from Maryland, (Mr. MONTGOMERY,) that the non-intercourse is very injurious to this country, and that it gives the English an exclusive privilege to carry our produce to market, and that they understood commercial regulations, and that there was no danger of Great Britain re-

taliating in this respect, that it would be an outrage. I agree that they understand commercial regulations, and they can very easily evade the operation that is intended by this act, without retaliating fully; for if they shall leave the port of Halifax open for our vessels to carry our produce, and no other, what will be the consequence? All their ports will be open to our vessels to take away their produce and manufactures, and only one for us to carry our produce to. If we want their manufactures we must send a ship with cash to purchase; or if we want to pay in produce we must then return and send another ship to Halifax with the produce of this country to dispose of to English agents, at a very low price, to be taken to Great Britain in their own vessels; so that she will be the carrier of our produce in the same manner that she now is under the operation of the non-intercourse. When that bill passed everything was predicted that has happened, and although it passed by a majority of this House it appears now to have no advocates, and the same thing will, I presume, happen to this. The same gentleman observes, that if Great Britain should shut her ports against us it would be an outrage, as though it was not as great an outrage for us to shut our ports against her. For my own part I am tired of this unequal commercial warfare, operating only on ourselves. The gentleman from Pennsylvania (Mr. SMILIE) says there are three parties in this House: one for war, one for peace, and one for something else. I do not believe that there is any party in this House for declaring war. I wish that gentlemen who find fault would devise some system that they would be satisfied with; for my part I would retain the first section until the attack on the Chesapeake should be atoned for; and the section repealing the non-intercourse—leaving our trade to be carried on in the same manner as before our restrictions.

Mr. LIVERMORE said when he heard gentlemen professing anxiety to protect commerce he could not but view them as friends. It seemed that they were both pursuing the same object, though one or the other must have mistaken the road. Both had in view to promote the commerce of the United States, but both could not be right in the course they took. The gentleman from Maryland (Mr. MONTGOMERY) had expressed a great anxiety lest the carrying trade of this country should devolve in the hands of the subjects of Great Britain. I, said Mr. L., certainly feel as great an anxiety as that gentleman that this should not be the case. I think I have motives more urgent far than any the gentleman can have. I have to be sure not only the same motives as an American, but also the additional reason that the people whom I represent are a commercial people, and more immediately interested in this business than many whom that gentleman represents. My constituents have an interest in it. It is to some of them their delight. Their all depends upon commerce. They have been a great deal injured by what has taken place. Many of them have been driven to beggary. I have witnessed

H. OF R.

American Navigation Act.

JANUARY, 1810.

this at home in every walk I take. I know that people have been ruined by the embargo, though previous to it in good business. I hear their complaints and can enter into their feelings. I not only hear their observations but can draw conclusions myself. I have therefore a better opportunity of knowing what will redound to their interest.

According to the opinion of the gentleman from Pennsylvania there are three classes in the House; one for war, one for commercial regulations, and another which certainly will not join the class in favor of war. Of that class am I, and can assure the gentleman that he is correct in that opinion. There seems to be an apprehension on all sides that Great Britain may attempt to monopolize the trade of this country. We appear also to agree in the position that it is the non-intercourse which now operates so severely on the people of the United States and bids fair to deprive them of the whole of the carrying trade. It has been well observed that there are now a great number of vessels at Amelia island ready to take in our produce and export it to Great Britain, and that the non-intercourse law is the occasion of it. Here then is a disease afflicting the people of this country. What is the remedy for it? Surely there cannot be a better one than to remove the cause. Repeal the non-intercourse, and bring it back to where it was. In the political as in the natural body, the radical cure of a complaint can only be effected by removing the cause of it. It was foretold that this obnoxious non-intercourse law would not operate to do any good, but precisely in the way in which it has operated. Now, sir, what do gentlemen propose as a cure for the evil? They revive the idea, so fashionable twelve months ago, that we must have a substitute for it. What was said then will equally apply now, that the only substitute for a bad measure is a repeal of the measure itself. It does not by any means follow that we ought to have any substitute. If gentlemen will show the necessity of a regulation to make people better than well, there might be some occasion for a substitute. From the natural situation of the United States they possess advantages over the Old World, which would insure to their commerce, when not impaired by empirics, a decided superiority. It is cheaper to carry our produce in our own vessels than in those of the subjects of Great Britain. This gives a preference to the people of the United States that will secure to them the carrying trade. As to the returns, goods can be imported into this country from Great Britain and her colonies to more advantage in our own vessels than in the vessels of foreigners, because the discriminating duties and tonnage gives the preference to our own vessels. What necessity is there then for any further law to regulate this business? We have got the whole carrying trade. Do you, sir, want to be better than well? There is such a thing as making assurance doubly sure; but in attempting this do you not endanger the whole? That is what I dread. When the gentleman talks to me about regulating commerce and doing some-

thing for the benefit of it, I fear he will bring about that state of things which he says he apprehends. I hope the gentleman will not conceive I am an enemy to commerce because I differ from him. But how is its prosperity to be insured? That is the question; to which I answer, by leaving it to take care of itself.

What security have we that Great Britain will not retaliate our interdictions? It has been said, and gentlemen have not answered it, that Great Britain has certainly the power of laying a discriminating duty on all articles imported from this country. Suppose a discriminating duty of ten per cent. were laid—what would be the operation of it? It would give a decided advantage to the British shipping, and would also give them an opportunity to deprive us of the carrying trade.

But the gentleman says, there is a regulation in the bill which will counteract that, viz: that you shall not import from any port anything else but the growth or manufacture of the country where it may be situated. I do not conceive, with the gentleman from Rhode Island (Mr. PORTER) that this will produce either a non-intercourse or embargo; for I do not believe, while a vessel sails on the ocean, that Great Britain will be deprived of our manufactures, or we of theirs. But we may be made to pay dearer for her manufactures, and that will be the only effect of it. It will increase the smuggling of goods; for it is impossible for the art of man to prevent the running of goods into this country, where the premium is sufficient to pay the risk. If you put on 50 or 60 or 100 per cent. premium on the advanced prices, it will but be an additional motion to evade your laws; and while they have vessels to navigate the ocean, and people to ply them, and while there are ports and harbors innumerable on the continent of the United States, and islands at proper distances, it is impossible but this should be the case. In addition to them, too, look at the islands along the whole extent of the coast of Canada. If you make an attempt to prevent direct importation, it will cost more than the whole revenue of the United States to keep people to guard the avenues to it on the St. Lawrence, Lake Ontario, and the other lakes. It will be impossible to prevent smuggling. The only way to prevent it, as the great William Pitt did, is by taking off the duty, and thus reducing the bounty to smugglers. Now, as to the carrying trade, suppose we make a regulation, that our produce shall not be carried directly to England but in American bottoms. Are the ports of England the only ports through which our produce could get to that country? We have heard a great deal of talk about Amelia island—that is the very place to which our produce would be carried. But Amelia island is not the only place; there is Madeira, Teneriffe, Fayal, Cadiz, and other places for depots—and our produce would go in this roundabout way with double freight, which would ultimately come out of the pockets of the planter. What is now the situation of cotton, tobacco, and such articles? They are low in price, because the non-intercourse act prevents them from going directly to a market—

JANUARY, 1810.

American Navigation Act.

H. OF R.

and we are now going to establish a regulation to continue this state of things. If, sir, Great Britain would sit still tamely, and not retaliate when she has means in her power, all this would operate very well. But can gentlemen suppose that would be the case? It is this that I deprecate. I am against every part of the bill except the two first sections, and that which repeals the non-intercourse. Every gentleman who has spoken is in favor of the two first sections, and I have heard no one against it. But I have no inclination to embarrass our commerce by the shackling regulations; and therefore hope this section, as well as several others connected with it, will be stricken out.

Mr. RHEA, of Tennessee, said he was opposed to striking out the fifth section of the bill. He observed that it did not appear very necessary in this case to speak of the embargo and non-intercourse laws; the embargo had passed away, and the non-intercourse, if at any time it had any effect, is not now considered to have any effect intended. To bring into view at this time, a consideration of those things which prevented the effect of the embargo or of the non-intercourse laws, will not be a conciliatory subject, and it does not now appear very necessary to contemplate what the effects of the embargo or of the non-intercourse would have been, if these several laws had in their operation been supported by the pure principles of patriotism or by the naval force of this nation.

The non-intercourse law has not had the effect intended, and the existing state of things under the law imperiously requires the adoption of some other measure. An arrangement between the United States and Great Britain has been made, and the stipulations of that arrangement have, on the part of the United States, been with good faith performed. Great Britain disavowed that arrangement, recalled Mr. Erskine, and sent another Minister Plenipotentiary to the United States; and the conduct of that new Minister compelled the Executive Government to refuse to receive any further communications from him. These events present additional reasons for the adoption of measures different from those now existing. The United States have heretofore desired to be and remain neutral, the principle of neutrality as respects Great Britain and France is retained in this bill, and the fourth and fifth sections of the bill contain provisions relative to commerce with these two nations and their dependencies. The fourth section confines that commerce to the ships and vessels of citizens of the United States, and the fifth section contains provisions for regulating and directing the mode of conducting that commerce. Commerce with nations other than those of Great Britain and France and their dependencies is not affected by this bill; except in this, that the products and manufactures of Great Britain and of France, and of their respective dependencies, are prohibited to be imported into the United States except from ports and places respectively in Great Britain or in France, or in their respective dependencies.

The gentleman who is Chairman of the Committee of Foreign Relations heretofore did say, that he considered the United States at war since the time of the attack on the Chesapeake frigate. With the opinion of that gentleman, said Mr. R., I agree to a certain extent, and this bill may be said to have relation to that opinion. Be that however as it may, the Committee on Foreign Relations has reported this bill, containing restrictions which that committee, at this time, judged fit, agreeably to existing circumstances, to be adopted. The provisions and restrictions proposed in the bill correspond, in a certain degree, with those which a state of war will produce. If the bill shall become a law, the provisions thereof will not be unchangeable; they will be subject to future alterations, which the Congress of the United States may judge necessary to meet existing circumstances. It has been said of a celebrated politician that he always adapted his policy to existing circumstances.

Although this bill may be said to originate from the embargo and non-intercourse laws, it may notwithstanding that be considered as the beginning of a new system; if there is reason to believe that the United States shall be engaged in war, this bill contains provisions which may be considered preparatory to that state of things.

Mr. R. observed, he would not contemplate what Great Britain would think or do, if this bill became a law. That Power when about to issue Orders in Council did not consult the United States, respecting the propriety of them as they may have relation to the United States; that Power has for years past legislated for its own interest, without respect to the welfare of the United States; and it is a duty of the United States to legislate for their own interest.

It is probable, that provisions, other, and expressive of more energy, than the provisions contained in this bill, would have been more consistent with the opinions of many, but it ought to be observed, that the Executive is a part of the Government of the United States, and that by the Constitution he is vested with certain powers. The Executive Government had, prior to the meeting of Congress, taken a lead in the affair of the United States with Great Britain. In the letter of the Secretary of State of the 8th of November, 1809, to Mr. Jackson, he, after being notified that no further communications would be received from him, is informed that, "in the meantime a ready attention will be given to any communications affecting the interest of the two nations, through any other channel that may be substituted;" and the Secretary of State in his letter of the 23d of November, 1809, to Mr. Pinkney, states, "you are particularly instructed, at the same time, in making those communications, to do it in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means the best calculated to establish the relations of the two countries on the solid foundation of justice, of friendship, and of mutual interest;" and the President of the United States in his Message of the 29th of

H. OF R.

American Navigation Act.

JANUARY, 1810.

November, 1809, to both Houses of Congress, uses the following language—"the British Government will learn, at the same time, that a ready attention will be given to communications through any channel which may be substituted. It will be happy if the change in this respect should be accompanied by a favorable revision of the unfriendly policy which has been so long pursued towards the United States." Such is the view taken by the Executive Government of this interesting subject. If Great Britain will not favorably revise the unfriendly policy which has been so long pursued towards the United States, this bill having become a law the provisions thereof will be preparatory for the approaching event.

The Constitution of the United States gives to Congress the power to declare war, and to the Executive Department of the Government of the United States the power to make treaties, and of course to use every endeavor which he may deem just and proper to preserve peace. Between these two Departments of the Government of the United States it is requisite, that on the question of peace or war there be unanimity of sentiment and of action.

The question was taken on Mr. LIVERMORE's motion and negatived, 31 only rising in the affirmative—about a hundred members present.

Mr. CHITTENDEN's motion, for permitting the importation of salt from any port or place, was amended, on the suggestion of Mr. TAYLOR, so as to confine the importation to vessels of the United States, and thus amended, passed without opposition.

The bill was then read through by sections.

Mr. MACON moved to insert in the section which provides for the revocation of the law by the President whenever the belligerent edicts should cease to violate the lawful commerce of the United States, the words "in his opinion;" so as to give the President the power to judge when they shall cease to violate our lawful commerce.

Mr. MONTGOMERY opposed the insertion of the words. The United States had once been tricked by a manoeuvre of the British Ministry, and he did not wish them again to be placed in that situation. He would not again be willing to withdraw our measures till the revocation of the decrees was placed beyond all doubt. He should have preferred the insertion of the word "actually," so that the President should have no authority by proclamation to suspend the law until the belligerents had actually ceased to violate our rights by their unjust decrees.

Mr. MACON replied that the amendment would not add much to the discretion of the President; for, as the section already stood, it would be a matter of opinion when the belligerents ceased to violate our rights. There must be some mode of ascertaining when their decrees were so changed as to cease to violate our neutral rights.

The amendment was agreed to without a division.

Mr. VAN DYKE proposed a provision for the remission of penalties incurred under the non-intercourse act prior to the 10th of June, 1809. He

referred to the President's Message, recommending the measure, to show the propriety of adopting it.

Mr. MACON and Mr. MONTGOMERY observed that the part of the Message of the President of the United States had been referred to the Committee of Commerce and Manufactures, and that it would be improper to include such a provision in this bill.

Mr. NEWTON observed that the Committee of Commerce and Manufactures were prepared to report on the subject.

Mr. VAN DYKE's motion was negatived without a division.

After making several verbal amendments, the Committee rose and reported the bill.

The House agreed now to consider the report of the Committee, 62 to 45.

Mr. LIVERMORE moved to strike out the 3d, 4th, 5th, 6th, 7th, 8th, 9th, and 10th sections, leaving only so much of the bill as provides for the repeal of the non-intercourse and the exclusion of foreign public armed vessels from our waters.

Doubts arising whether the motion was now in order,

Mr. MILNOR moved to postpone the further consideration of the bill till Friday, as he wished to have an opportunity fully to examine the bill and compare its several provisions.

Messrs. QUINCY, LIVERMORE, and PITKIN, supported the motion on the same grounds.

And, on the question, the further consideration of the bill was postponed till Friday, 72 voting in the affirmative.

The House resumed the report of the Committee of the Whole on the report of the Committee of Elections on the contested election of Jonathan Jennings. Before the House came to a decision on it, a motion was made to adjourn and carried.

THURSDAY, January 11.

A Message received yesterday from the President of the United States was read, transmitting a report of the operations of the Mint, for the year 1809.—Ordered to lie on the table.

Mr. LEWIS, from the committee appointed on the twenty-second ultimo, on a Message from the President of the United States, communicating a report of the Surveyor of Public Buildings, presented a bill making further appropriations for completing the Capitol, and for other purposes; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. LEWIS, from the same committee, also made an explanatory report; which was read, and committed to the same Committee of the Whole.

Mr. TALLMADGE, from the committee appointed on that part of the President's Message, at the commencement of the session, which relates to the organization of the militia of the United States, presented a bill authorizing a detachment from the militia of the United States; which was read twice, and committed to a Committee of the Whole on Tuesday next.

Mr. JOHNSON, from the Committee of Claims,

JANUARY, 1810.

Elizabeth Hamilton—Contested Election.

H. OF R.

presented a bill for the relief of Richard Taylor; which was read twice, and committed to a Committee of the Whole on Monday next.

REMISSION OF FORFEITURE.

Mr. NEWTON, from the Committee of Commerce and Manufactures, made a report on the petition of Levin Jones; which was read, and referred to the Committee of the Whole on the bill for the relief of Harry Caldwell and Amasa Jackson. The report is as follows:

The petitioner states that his schooner has been seized at Norfolk, Virginia, for bringing to that place from Charleston, South Carolina, certain French passengers and their slaves. These unfortunate people were driven from the island of Cuba, and were destined for the port of Norfolk, but the vessel on board of which they embarked was wrecked on Crooked Island. They were taken from the wreck by Captain John Weaver, of the brig Harriet and Martha, and landed at Charleston. Petitioner states that, at the request of the Collector of Charleston, and other gentlemen of great respectability, he took the Frenchmen and slaves and landed them at Norfolk, with the permission of the Mayor.

In doing what he did, he states he was influenced by no other motive than that of humanity towards the unfortunate sufferers.

The committee do not hesitate, from the proof before them, to exonerate the petitioner from any intention of violating the law. No case can better claim the equitable interposition of Congress. The schooner of the petitioner was seized because the slaves were not inserted in the manifest, in pursuance of the ninth and tenth sections of the act, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord, one thousand eight hundred and eight," passed the 2d of March, 1807; the necessity of doing which, the petitioner was not aware, nor was he reminded by the Collector of Charleston, with whose knowledge he had taken the slaves on board, that the law required him to insert their names in the manifest.

If the slaves had been carried to Norfolk, the port for which they were destined when they were embarked at St. Jago de Cuba, the vessel importing them would not have been forfeited under the "Act for the remission of certain penalties and forfeitures, and for other purposes," passed the first session of the eleventh Congress. The case of the ship Clara, the property of Andrew Foster and Jacob P. Giraud, to which the National Legislature extended relief, is, in principle, the same with the present. The committee are of opinion that any penalty and forfeiture, which may have been incurred by the petitioner, ought to be remitted.

They therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner is reasonable, and ought to be granted.

CLAIM OF ELIZABETH HAMILTON.

Mr. JOHNSON, from the Committee of Claims, made a report on the petition of Elizabeth Hamilton, referred on the 5th ultimo; which was read, and referred to a Committee of the Whole on Wednesday next. The report is as follows:

That it is stated by the petitioner, that her late husband, Alexander Hamilton, served as Lieutenant Col-

onel in the Army of the United States during the Revolutionary war; that, in common with other officers, he was entitled to five years' full pay as commutation for half-pay during life; that her husband, being in Congress at the time the resolution passed making this provision in favor of the officers of the Revolution, in a letter to the Secretary of War he relinquished his claim to commutation; and the petitioner prays for the amount of said commutation. It does not appear, from any evidence from the Secretary of War, or of the Treasury, that the late Colonel Hamilton ever did relinquish his right to half-pay or commutation, nor can the committee believe that it would be proper or generous that such relinquishment should be relied on as a bar to a just claim upon the United States for meritorious services against the representatives of such claimant. It appears, from a letter from the Secretary of the Treasury, that the late Colonel Hamilton received pay as an officer up to the end of February, 1782, and no later. And there is no evidence upon the Treasury books, or books of the War Office, whether at this or what period Colonel Hamilton resigned. The committee, however, have been furnished with a document, which induces the belief that Colonel Hamilton did not resign his commission until after the 28th day of October, 1783, which document is in these words: "In pursuance of an act of Congress of the 30th day of September, 1783, Lieutenant Colonel Hamilton is to take rank as Colonel by Brevet, in the Armies of the United States of America. Signed at Princeton, October 28, 1783, by Elias Boudinot, President," &c.

The committee are of opinion, that the resolution of Congress, upon a liberal construction, did not require actual service, and that the officer should be in the receipt of his pay to entitle him to commutation; but that he should have a commission, and be at all times liable to be called on to perform the duties of his station. The committee are confirmed in this opinion, when they recollect the situation of the United States and the Army in the year 1783, and in fact, from the capture of Cornwallis and his army at Little York, in the State of Virginia, in the year 1781. But this claim is, like all other claims of this description, barred by the statute of limitation. The following resolution is offered:

Resolved, That the prayer of the petition ought not to be granted.

CONTESTED ELECTION.

The House resumed the consideration of the report of the Committee of the Whole on the report of the Committee of Elections on the contested election of Jonathan Jennings.

[The ground on which the Committee of Elections have reported against the right of Mr. J. to his seat, is, that the proclamation of the Governor directing the election of a delegate was illegal, having been predicated on a liberal construction of the law of Congress, taking their probable intention into view, instead of following the letter of the law. The committee did not examine into the alleged irregularities attending the election when held, resting their report on the illegality of the proclamation of the Governor under which the election was held.]

The debate turned principally on the construction of the laws for dividing the Territory of Indiana, and for the extension of the right of suffrage.

H. OF R.

British, French, and Danish Captures.

JANUARY, 1810.

A motion was made to recommit the report; but before it was decided, the House adjourned.

FRIDAY, January 12.

Mr. SHEFFEY observed that at the last session a committee had been appointed to inquire into the expenditure of public money for the eight years preceding, by whom several reports had been made; but that committee not having concluded the business committed to them, and the gentleman at the head of the committee (Mr. RANDOLPH) not yet having taken his seat, he thought it his duty to offer the following resolution:

Resolved, That a committee be appointed to inquire and report, so far as the same has not already been done, whether moneys drawn from the Treasury between the third day of March, 1801, and the fourth day of March, 1809, have been faithfully applied to the objects for which they have been appropriated, and whether the same have been regularly accounted for.

The resolution was adopted without opposition.

Mr. SHEFFEY, Mr. W. ALSTON, Mr. MILNOR, Mr. MOSELEY, Mr. SHAW, Mr. BROWN, and Mr. MORROW, were appointed a committee, pursuant to the said resolution.

Mr. MACON gave notice that, on Monday, he should call for the consideration of the report of the Committee of the Whole on the bill concerning commercial intercourse with Great Britain and France, and for other purposes.

On motion of Mr. EPPES, a committee was appointed to inquire what regulations were necessary to expedite the printing ordered by the House of Representatives.

CONTESTED ELECTION.

The House resumed the consideration of the unfinished business on the report of the Committee of Elections on the contested election of Jonathan Jennings.

The following is the resolution reported by the Committee:

Resolved, That the election held for a Delegate to Congress for the Indiana Territory, on the 22d of May, 1809, *being without authority of law*, is void, and consequently, the seat of Jonathan Jennings, as a Delegate for that Territory, hereby declared vacant.

A motion was made to strike out the words in *italic*; which was negatived—yeas 51, nays 45.

This subject was diffusely debated on this day as well as yesterday; and the question was decided by yeas and nays about three o'clock to-day.

The House refused to concur in the report of the Committee of Elections. For concurrence 30, against it 83; majority against it 53.

A motion was made by Mr. W. ALSTON to recommit the report to the Committee of Elections, which was negatived, only 30 members rising in the affirmative.

Mr. LIVERMORE moved the following resolution:

Resolved, That Jonathan Jennings, returned as a Delegate from Indiana Territory, is entitled to his seat in this House.

But, after debate, Mr. LIVERMORE withdrew his motion.

BRITISH, FRENCH, AND DANISH CAPTURES.

The following Messages were received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

I communicate to the House of Representatives the report of the Secretary of State on the subject of their resolution of the 6th December last.

JAMES MADISON.

JANUARY 12, 1810.

DEPARTMENT OF STATE, Jan. 12, 1810.

The Secretary of State respectfully reports to the President of the United States, agreeably to the resolution of the House of Representatives of the 6th of December, 1809, that the enclosed papers from A to E contain, in substance, the information which has been received at his office respecting seizures, captures, and condemnations of ships and merchandise of the citizens of the United States, under the authority of the Government of Denmark.

A. Memorial of sundry Americans at Christiansand to the President of the United States, dated August 11, 1809.

B. Translation of an extract of a letter from Peter Isaacson, lately appointed Consul of the United States at Christiansand, to the President of the United States, dated August 11, 1809.

C. List of vessels which have been carried into the ports of Denmark and Norway, received from Mr. Saabye, Consul of the United States at Copenhagen.

D. Extract of a letter from Mr. Saabye to the Secretary of State, dated August 1, 1809.

E. Resolutions and memorial of merchants of Philadelphia.

The Secretary of State reports to the President that information has been received at this office, within the period embraced by the resolution referred to, of the capture of American vessels by those of Great Britain, under various pretexts, viz: for dealing by bills of exchange in an enemy's country, for colonial produce; violating the British Orders in Council of January and November, 1807; for infringing the blockades of Martinique; for being engaged in the Vera Cruz and colonial carrying trade; and of the seizure of some American vessels at Curraçoa, at Ceylon, and in China, for reasons not distinctly stated. It is to be observed, however, that the papers in this office afford but a very imperfect account of the British captures of American property; and it is for this reason that a detail is not attempted in this report; more particularly, as no official accounts have been received on which to ground one.

The Secretary begs leave, likewise, to state to the President, that, within the period embraced by the resolution, property, to a considerable amount, belonging to the United States, has been captured and seized by the French for violations of the Berlin and Milan decrees, and under other pretexts; that in some instances, the merchant vessels of the United States have been burnt at sea by French cruisers, and in others, the indemnity of the vessels and property has been purchased by the means of bills of exchange drawn by the captains of the American vessels upon their owners, at a rate imposed by the captors. The accompanying statement of American vessels condemned by the Imperial Council of Prizes at Paris, from the 18th of December, 1806, to the 26th May, 1809, received from Mr. Warden, acting as Consul of the United States at Paris, more particularly explains the grounds of French captures.

JANUARY, 1810.

American Navigation Act—Foreign Licenses to Trade.

H. OF R.

It is to be observed, however, as to many of these acts, that they cannot otherwise be considered as having been done under the authority of those Governments than that the vessels committing them were under their flags.

Respectfully submitted,

R. SMITH.

To the House of Representatives of the United States :

I communicate to the House of Representatives the report of the Secretary of State on the subject of their resolution of the 3d instant.

JAMES MADISON.

JANUARY 12, 1810.

DEPARTMENT OF STATE, Jan. 12, 1810.

The Secretary of State has the honor to report to the President, in conformity to the resolution of the House of Representatives of the 3d instant, that no information has been received at the Department of State relative to the blockade of the ports of the Baltic by France, and of the exclusion of neutral vessels by Russia, Sweden, and Denmark. As it is presumed, however, that the enclosed papers, the first a translation of an ukase of the Russian Government, dated on the 14th of May, 1809, and the second, a translation furnished to this Department on the 10th of January last, by the *Chargé des Affaires* of Denmark, of such parts of the instructions given to the privateers of that country on the 14th September, 1807, as were supposed to be most interesting to neutrals, and may have some connexion with the object of the resolution, they are respectfully submitted.

R. SMITH.

These Messages, with the documents accompanying the same, were ordered to be printed.

MONDAY, January 15.

Two members, to wit: from New York, GURDON S. MUMFORD, and from Kentucky, MATTHEW LYON, appeared, and took their seats in the House.

AMERICAN NAVIGATION ACT.

The House resumed the consideration of the bill concerning commercial intercourse with Great Britain and France, and for other purposes.

The SPEAKER decided that the motion made by Mr. LIVERMORE to strike out seven or eight sections could not be received until the House had decided on the amendments reported to the bill by the Committee of the Whole.

Some debate took place on the point of order.

Mr. BURWELL moved to postpone the further consideration of the bill till to-morrow. On reflecting on the situation of the United States, he said, there were some propositions which appeared to him proper either to be incorporated in this bill or to form the subject of a separate bill. On Friday last a Message had been received from the President of the United States, containing information as to our commercial relations, which he had expected would have been laid on the tables of the members this morning, and from which he should derive information necessary to enable him to make up his mind as to the course proper to be pursued; but the Message was not yet printed. Under present impressions, he said, he thought it proper and consistent with the honor of the country to make out the commercial rights

for which we are prepared to contend. From the reading of the Message he had just alluded to, it struck him that there was no obstacle existing to the trade to the north of Europe. He thought this was an extensive trade which could be enjoyed to our emolument without in the least committing the honor of the nation. Another thing to be inquired into, was, whether, for the maintenance of acknowledged rights, the naval force of the United States was to be used? If, under a solemn decision of the House, it was not to be employed, it would be time to give up everything like naval preparation—for, unless to defend our just rights, for what was it to be used? Gentlemen, Mr. B. said, might object to the course which he proposed, as involving matters of great difficulty, and as tending to bring the United States into collision with foreign nations as to the construction of the law of nations. For himself he said he was disposed to adopt some equitable and fair standard, by which to be guided. He would define our rights in relation to contraband, the right of search, and the principles of blockade, by law; and he would resort to the laws of nations, the treaties between us and England, and the various treaties of modern date fixing the meaning of neutral rights. But he would resist the claim to capture and condemnation upon pretexts novel and frivolous. The rights which a state of war gives to the belligerents should be scrupulously respected, the fair exercise of them should never be opposed; if, however, the property of the citizen and the trade of the country should be attacked by reviving the doctrine that certificates of origin, &c., were causes of condemnation, we should be at issue, and he trusted that upon grounds so honorable, so truly and exclusively American, we should never recede. To consider this deeply interesting subject he wished further time to be allowed, and therefore moved to postpone it till to-morrow.

The motion was agreed to.

FOREIGN LICENSES TO TRADE.

The House resolved itself into a Committee of the whole on the bill "to deprive in certain cases vessels of their American character, and to prevent under certain disabilities any citizen of the United States taking a license from any foreign Power to navigate the ocean or trade with any other foreign or independent Power."

The following is the bill:

Be it enacted, &c., That if any person, being a citizen of the United States of America, shall solicit, take, accept, or use, or suffer any person acting by, or under his or her authority to solicit, take, accept, or use a license or permission, procured from any foreign Power whatsoever, or any paper, writing, or document, purporting to be a license or permission, issued under the authority of any foreign Power whatsoever, for his or her vessel, to pass to, or trade with, any other foreign and independent Power, such person shall be deemed guilty of a high misdemeanor, and on conviction thereof, in any court having competent jurisdiction, shall be fined in a sum not less than two thousand, nor more than ten thousand dollars, and be imprisoned for a term not less than six months, nor more than two

years; and such person shall forfeit the right and privilege of owning or navigating ever afterwards, any vessel entitled to the benefits and privileges of a vessel of the United States, and shall forever be disqualified to hold any office of honor, trust, or profit under the United States. And the register or sea-letter, together with all and every other paper or muniment belonging to such ship or vessel, shall become utterly null and void; and no register or sea-letter shall ever afterwards be granted, under authority of the United States, to such ship or vessel.

SEC. 2. *And be it further enacted*, That all penalties and forfeitures arising under or incurred by virtue of this act, may be sued for, prosecuted and recovered, with costs of suit, by action of debt, in the name of the United States of America, or by indictment or information, in any court having competent jurisdiction to try the same, and shall be distributed and accounted for in the manner prescribed by the act entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety nine.

Mr. McKim moved to amend the bill by inserting after the words "independent Power, in the 14th line, the following amendment:

"Or shall, in any foreign port or place where his or her vessel may load, or have been laden in whole or in part, or from which she may depart or have departed, for any other foreign port, or in such other foreign port, solicit, accept, receive, or use, or cause to be solicited, accepted, received, or used any false or colorable papers (in the nature of a clearance or manifest) purporting that such vessel did depart from the United States."

Mr. LIVERMORE observed, that, for his part, he was against the bill *in toto*; for he believed that it would benefit the dishonest to the injury of the honest part of the community. It would benefit those who cared nothing for law, for oaths or for character, and who would forego everything for the love of gain. The citizens of the United States might not continue to carry on this trade, but their vessels would, under the direction of foreigners. It was impossible, he said, to control a vessel after she had got out to sea; the vessel indeed might be subject to forfeiture after it returned, but it was no object with its owners that she should come back at all. There were, it was well known, in the United States many adopted citizens who cared no more about the country than they did about Ethiopia, and there were native citizens who were not attached to their country and felt no obligation to obey its laws. This bill against foreign licenses would promote their interest; for Congress could no more prevent the practice than they could prevent the wind from blowing. It was no penalty to the owners of such vessels to say that they should not return to the United States, for a single profitable freight would pay the cost of the vessel. Instead of repressing, this bill would assist this very traffic. Why were Congress always attempting to regulate that which they could not regulate? He wished to see an end to this system.

Mr. McKim said it was obvious to the most unreflecting mind that the practice of carrying on trade

under foreign licenses must be attended with injurious consequences to the fair trade of the United States. It exposed our vessels to inconvenience, often to capture and ultimate confiscation. This reason alone was sufficient for putting a stop to a trade which was besides disgraceful to the country. He was satisfied with the bill as far as it went; but there was another injury of a different description against which he wished to guard, which was the sailing with forged papers or clearances purchased in a foreign port, and produced as evidence of the origin of the voyage in this country, instead of a foreign port. These frauds, he said, were frequently discovered, and, being detected, gave birth to a general prejudice against all American commerce.

Mr. LIVERMORE observed that there was already a law in existence to punish forgeries of the custom-house papers, if gentlemen could contrive a mode of getting the offenders here. But what availed it to make laws under which it was impossible that offenders could be brought to trial?

Mr. McKim said he was disposed to pay great respect to the legal knowledge of the gentleman from Massachusetts; but he contended that there was no law in existence to punish the accepting, receiving or using clearances forged in a foreign country. And when they were used abroad to the prejudice of the country, the offenders ought to be punished when they return. The gentleman had said, when up before, that this law would be evaded by some that it would not operate on all. This Mr. McK. said he readily admitted, for no laws could be enacted sufficient to punish all culprits; but it was consonant with the essential interests of the country that this practice should be punished, and it was no reason against it that a few offenders might escape.

Mr. McKim's amendment was agreed to, 60 to 31.

Mr. NEWTON remarked that a bill similar to the present had passed the House of Representatives by a large majority at the second session of the tenth Congress, but had been postponed indefinitely by the Senate. He said it presented almost a self-evident proposition; it required no reasoning to elucidate its provisions or enforce its necessity. Was the American flag prostituted, or not? Was it the duty of Congress to prevent its prostitution, or not? Mr. N. said that the response of every gentleman would be in the affirmative. This bill went as far as it was in the power of Congress, to effect that object. It was then their duty, and he had no doubt the Legislature would perform it, to exert all the power which the Constitution of the United States had given them to chastise the prosecutors of this trade.

Mr. PICKMAN said there existed one objection to the section now under consideration, which it must strike every gentleman in the House ought to prevent the passage of the bill in its present form. He said it went to the utter destruction of the trade to the Baltic, the most profitable pursued by the United States. No vessel was permitted to go through the Sound without

JANUARY, 1810.

Foreign Licenses to Trade.

H. OF R.

taking a license from the Government of Denmark to proceed—and this license all nations had paid for. Now he submitted it to the gentlemen whether they would pass a law which would go to the destruction of the best trade which the nation enjoyed. It certainly was no disgrace to the United States, to do that which all other nations of the world had thought proper to do. This being a law without limitation, it would not be modified or repealed without the consent of all three branches of the Legislature, no matter what injuries should be found to flow from it. These commercial regulations, Mr. P. said, often produced embarrassment, and never ought to be adopted but upon urgent necessity, and then with a cautious hand; and it was certain that our commercial regulations for several years past had injured our own citizens more than foreigners. If such a law was passed, it ought to be so modified as not to prevent our citizens from taking the customary license from Denmark to pass the Sound.

Mr. NEWTON said that this bill was only designed to prevent our citizens from taking a license from one foreign Power, for instance England, to trade with another foreign and independent Power, say France. The only legal trade which he knew of that would be prevented by the bill was the trade from Batavia to Japan, which did not amount to more perhaps than one voyage a year. With respect to passing the Sound, it was well known that all nations passing into the Baltic paid some duty there. He conceived the bill would not affect this trade.

Mr. PICKMAN said that if the bill were as gentlemen described it, he should not perhaps object to it. If it was only to prevent our vessels from taking licenses from Great Britain to trade to France, it was much too vaguely and generally expressed; for the trade to the Baltic was clearly included within the bill.

Mr. SHEFFEY thought that this bill might do a great deal of mischief by cutting up the carrying trade—not the colonial trade, sometimes so called, but the real carrying trade. It was well known that foreign nations regulated their commerce, and that in many instances certain foreign productions were only permitted to be carried in their own vessels, unless in particular instances where relaxations were made, which relaxations must be manifested by licenses or permissions. Unless therefore gentlemen would cut up this trade, which he had understood it was not intended to surrender, they ought to pass this bill. It did not appear to him, either, that this bill would prevent the evil against which it was intended to guard. It was the giving a neutral color to foreign cargoes which he understood was complained of. This bill did not come up to that object, as there was no provision in it tending to prevent it but the amendment just agreed to. The short discussion which had taken place, he said would turn the attention of gentlemen to the bill; and he moved that the Committee should rise, to give time for further consideration, before they agreed to pass a bill which would cut up half

the trade of the United States. Whether or not a license was necessary on all occasions where it was used, it was certain on some occasions it was. Wherever there was a relaxation by any nation in its navigation laws, there must be something like licenses or permits issued. He wished to see some modification of the bill, or some better definition of the mischief to be guarded against.

Mr. NEWTON said he did not know of any carrying trade intended to be abandoned by the bill. The Committee of Commerce and Manufactures in reporting the bill before them had confined themselves to one object, viz: to prevent the prostitution of the American flag. Would gentlemen tell him what foreign trade there was from Denmark to any port in the Baltic? Denmark was herself a commercial nation, and carried on her own trade. The trade hence to Russia was a direct trade, and did not interfere with the trade from one foreign port to another. As permits to trade, he knew that licenses had been given by nations having colonies to favorites to trade with those colonies. And this bill would not prevent that species of trade, being only designed to put an end to the trade in American vessels to one independent Power, under permits from another.

Mr. SHEFFEY said that if permits were given to pass into the Baltic after payment of the duties, this bill would certainly cut up that trade. As to a nation's never giving trading licenses or permits except to its colonies, the gentleman was incorrect. England had often given licenses to import particular articles from abroad. Supposing that the importation of corn to England were generally interdicted, and necessity should compel her to give licenses to import corn from the United States. Such a trade would be interdicted by this bill. These crude ideas Mr. S. said he threw out to induce gentlemen to reflect on the subject. He had himself no enmity to the bill, for he really wished for a remedy for the evil at which it was aimed.

Mr. PICKMAN said there was a trade carried on in the Baltic which was immensely valuable to the United States, and which could not be prosecuted without the consent of the Danish Government. Large parcels of cotton had been lately sent to the Baltic and had found a favorable market, and the demand was likely to increase. If this bill should cut up the trade to the Baltic, it would do more injury to the trade of the United States than every other regulation of commerce which had ever been made. He was confident, he said, that on reflection the bill would undergo great modification before passed, or would never be passed.

Mr. McKIM said that if a doubt existed as to an interference with that trade, he had no objection to the introduction of an amendment expressly to exempt it from the operation of the bill. He said that he as a merchant had no knowledge of any such licenses as those which Mr. Sheffey had mentioned. He explained what trade he wished to affect by the bill. England, having West India colonies, was shut out from the Continent, and her own ports were filled

H. OF R.

Previous Question—Remission of Forfeiture.

JANUARY, 1810.

with West India produce. She had prohibited the vessels of the United States from going to the Continent, for the purpose of smuggling this produce, there herself. American vessels, however, were employed in this smuggling trade, and furnished with permits to proceed on their voyage for that purpose. They then proceeded under licenses on a voyage which every independent nation had a right to prosecute without license or permission from any other Power. This he was desirous to prevent. As to the Committee's rising, he said he had no objection to it, for he was convinced the more it was considered the more evident the necessity of the measure would appear.

The Committee then rose, 59 to 38, reported progress, and obtained leave to sit again:

PREVIOUS QUESTION.

The House again went into Committee of the Whole, on the rules and orders reported for the government of the House.

Mr. QUINCY's motion being yet under consideration viz: to amend the rule respecting the previous question, by adding to it substantially as follows:

"Provided, That the previous question shall not be put until after every member who chooses to speak shall have spoken once on the main question."

Mr. BASSETT moved to strike out the words in *italic* and insert "*reasonable debate*."

Mr. COX supported the rule and Messrs. LYON and UPHAM opposed it.

Mr. BIBB moved that the Committee should rise; not because he was opposed to the rule, but because he thought he could get at his object with less difficulty another way. There was in existence at present a rule which had existed and been enforced until, about two years ago, by a construction put upon it by the House, it had been rendered null. He was in the majority on that vote, but confessed he had discovered his error, and had no doubt that a majority of the House would now reverse the decision they had then made and reinstate the rule in its former station. With the view of trying this question the first opportunity, he wished the Committee to rise. The Committee rose, 54 to 48.

Mr. BASSETT expressed a hope, if this rule was to remain as it stood at present, that all the old rules would be retained, and the Committee should be refused leave to sit again.

On this motion debate arose. Messrs. QUINCY and PITKIN spoke against the rule, and Messrs. SMILIE, HOLLAND, BIBB, and SOUTHARD, in support of it. A motion for adjournment put an end to the debate.

TUESDAY, January 16.

Another member, to wit: from South Carolina, RICHARD WINN, appeared, and took his seat in the House.

On motion of Mr. ANDERSON,
Ordered, That the petitions of the officers of the Navy presented on the twentieth of February, one thousand eight hundred and eight, be referred

to the committee appointed on that part of the Message of the President of the United States, at the commencement of the session, which relates to the Naval Establishment.

On motion of Mr. QUINCY,

Ordered, That the report of the Comptroller of the Treasury, in relation to unsettled accounts and balances, made to this House on the first ultimo, be referred to Mr. QUINCY, Mr. MUMFORD, Mr. BARD, Mr. LYON, and Mr. BURWELL, to consider and report thereon to the House.

REMISSION OF FORFEITURE.

Mr. NEWTON, from the Committee of Commerce and Manufactures, made a report on the petition of Jeremiah Reynolds, which was read, and referred to the Committee of the Whole on the bill for the relief of Harry Caldwell and Amasa Jackson. The report is as follows:

The petitioner states that he took on board of his vessel, at Curaçoa, in September last, certain French passengers, with six slaves, the property of the passengers. The Frenchmen, in their affidavits, state, that it was their intention, when they were driven from Cuba, to come to the United States, but that they were prevented for want of an opportunity. In this dilemma they embarked for the town of St. Domingo, in the island of Hispaniola. That, on their arrival at this last mentioned place, they found it in the possession of the united forces of Great Britain and Spain. Not being permitted to land, they were compelled to go to Curaçoa. At this last place they were admitted to land, but not before they had given security to take the first opportunity that offered for the United States. The petitioner does not, from any document before the committee, appear to have been constrained by the constituted authorities of Curaçoa to take on board of his vessel the French passengers and their slaves. The petitioner, in consequence of bringing the slaves, the property of the Frenchmen, to New Orleans, has incurred heavy penalties, and subjected his vessel to forfeiture.

The affidavits accompanying the petition were taken with the knowledge of Philip Grimes, the United States' Attorney for the Orleans Territory.

The committee are of opinion that the case of the petitioner is not embraced by the provisions of the law remitting certain penalties and forfeitures, and for other purposes, passed the first session of the eleventh Congress, as that law relates to voyages direct from Cuba. Had the petitioner brought the passengers with their slaves from Cuba, he would have incurred neither penalty nor forfeiture. This case differs from those which have been sustained by Congress in this circumstance, only—the passengers, with their slaves, were, in the cases relieved, brought from Cuba; in the present, from Curaçoa. The cause of this was not the fault of the French passengers. When they were forcibly expelled from Cuba, no passage could be procured for the United States; of course they were compelled to seek shelter in some other island, until an opportunity should offer. At Curaçoa they were permitted to land, first giving security to leave the island as soon as possible. In this situation the petitioner found them, and, on their application, took them, with their slaves, to New Orleans, where he landed them. From this view of the petitioner's case, the committee are clearly of opinion that it is within the scope and protection of the principle on which relief was ex-

JANUARY, 1810.

Previous Question.

H. OF R.

tended by the aforementioned law. The want of an asylum for the distressed refugees, gave existence to that law.

The present case is therefore fairly entitled to the same equitable interposition of Congress, as the Frenchmen could find no refuge in any of the islands, and the committee are convinced that the same measure of justice should be meted, not only to the petitioner, but likewise to the French passengers. With these impressions, the committee do not hesitate to recommend the adoption of the following resolution.

Resolved, That the prayer of the petitioner is reasonable and ought to be granted.

PREVIOUS QUESTION.

The order of the day on the unfinished business was resumed. The question still under consideration, whether the Committee of the Whole should again have leave to sit again.

Mr. DANA expressed a desire of having the whole subject referred to a select committee, and spoke decidedly against the rule for the previous question.

Messrs. MOSELY, SHEFFEY, NELSON, DANA, and PITKIN, also opposed the rule; and Messrs. JOHNSON, ALSTON, RHEA, and ROSS, supported it.

The Committee was refused leave to sit again, 53 to 48.

The House then agreed now to consider the rules.

Mr. DAWSON moved to strike out the rule for the previous question, for the purpose of inserting a rule to the following effect—That the previous question should be taken on the demand of one fifth of the members present, and should be in this form, viz: "Shall the main question be taken?" And if determined in the negative, the subject shall not further be discussed; if decided in the affirmative, debate shall proceed.

Mr. NELSON called for a division of the question, so as to take it first on striking out the rule as reported.

Mr. SHEFFEY called for the yeas and nays on the question.

Mr. PORTER said that he should not have protracted the debate by any remarks of his, did he not conceive that the rule reported by the committee, and now under consideration, had been unfairly treated by its opponents. Instead of meeting it by argument, it had only been declaimed against by the introduction of popular topics, which had really nothing to do with its merits, and by denouncing the motives of those who supported it as unfriendly to the liberties of their country.

I will not, said Mr. P., yield to any member on this floor in respect for that great Constitutional privilege, the freedom of speech. And it is because I venerate that great attribute of liberty, it is because I wish to see it retain its proper character and influence, that I am unwilling to invest it with power which would enable it to subvert every other privilege that is secured to me by the Constitution. To give to it the powers which have been contended for, would be to alter its character, to make it not the freedom, but, as was properly said by a gentleman from North Caro-

lina, the tyranny of speech. And all the declamation and eloquence which have been displayed in opposition to the rule have been founded on the false assumption that it was an abridgment of the liberty of speech. It, in fact, is nothing more than a just and necessary restraint upon its licentiousness.

The members of this House, sir, have an unquestionable right to express their sentiments on any proposition which shall be submitted to their decision; and there is no doubt but it would be a violation of the letter as well as the spirit of the Constitution to deny the right of debate. But, on the contrary, there is still less doubt that it would be a most flagrant violation of the Constitution to clothe this privilege with forms by which it might crush the legislative powers of this House, and suspend every other function but that of speaking. I say, sir, it is the Constitutional right of the members of this House to debate, but it is also a Constitutional duty of a majority of the House to act, and to act with reasonable expedition. We are bound not only to pass laws for the general welfare of the country, but to pass them in time to meet the public exigencies. Suppose the country were to be invaded by an enemy, (and this is an event not unlikely to happen at this moment,) what would be the duty of this House? The answer is obvious. It would be our duty not only to adopt measures for repelling the enemy, but to do it with a promptitude suited to the urgency of the occasion. Suppose, too, (a supposition which may, but I hope never will be realized in this country,) that there should be, at such a time, twenty members within these walls who were the advocates and secret allies of the enemy, and who could combine to paralyze the strength of the nation and to resist every effort of the House for its defence, by executing, in the fullest extent in which it has been claimed, the freedom of debate. Must the majority sit here day after day, and week after week, to hear these propositions and discuss them, and take no measures for the defence of the country? Must we remain supine and inactive, and see our towns burned, our citizens murdered, the capital invested, and content ourselves in patiently listening to arguments which profess to convince us that these enormities are just, and ought not to be resisted? Must we, in short, tamely suffer our throats to be cut for fear of invading the sanctuary of speech? Such a doctrine as this, sir, will not be advocated on this floor, and yet this is precisely the situation in which we might be placed by the operation of our present rules, or rather by what I consider the unfortunate and erroneous construction which has been put upon them. It has been acknowledged by most of those who have spoken upon the other side of the House, that such is the latitude given to debate by the present rules as to put it in the power of a very inconsiderable minority (I certainly do not speak of the present minority) to obstruct the proceedings of this House altogether. And is there no danger in this, sir? Do the gentlemen whose fears for lib-

H. OF R.

Previous Question.

JANUARY, 1810.

erty are so active on this occasion, and whose sensibilities are so deeply wounded at the idea of confiding a discrimination to a majority, feel no alarm in committing so fatal a power to a minority?

That there may be such a thing as an abuse of the right of debate no one will deny. That this right has been more than once abused we need not the lights of history to be informed. It is within the recollection of us all. Nor will it be denied that there must be, somewhere, a power to prevent the recurrence of such abuses in future. This power is placed in the discretion of a majority of this House by that clause of the Constitution which authorizes us to determine the rules of our proceedings. It is very properly placed here, sir, in order that we may have the opportunity of ascertaining as far as possible the undefined and conflicting pretensions of speech with the performance of our great and imperious duties.

What then, sir, is the rule reported by the committee, which has excited so much alarm? It is this: that the previous question shall be put at the instance of one-fifth of the members present, and, if carried in the affirmative, shall put an end to all debate upon the main question. In other words, the meaning of the rule is, (for I do not wish to disguise it,) that the majority shall have power to stop debate when in their opinion it has been sufficiently extended. This rule is said to be a violation of the Constitution, inasmuch as it gives to the majority a discretionary power over debate, which, however, may be so exercised as wholly to prevent debate on any question, and in that way to abridge the Constitutional freedom of speech. If the delegation of a discretionary power be a violation of the Constitution, because that discretion may be abused, then the Constitution has violated its own principles, for I need not inform the House that every article of the Constitution gives discretionary power, and that every such power is liable to be abused. It is not the rule, but the Constitution which gives to a majority of this House a discretionary power over debate, and the rule only describes the manner in which this discretion shall be exercised. But, sir, the Constitution has not given, nor does this rule, which is a mere confirmation of the power vested by the Constitution, give to this House a right to prevent debate altogether. It merely gives a discretionary power, which must exist somewhere, to decide when debate has been sufficiently protracted. And this is not an arbitrary, capricious discretion, but a discretion to be exercised under the oaths we have taken to support the Constitution, which Constitution enjoins on us the twofold obligation to pass laws for the benefit of the country, and to pass them in such manner as shall not violate the just freedom of speech. The great and fundamental mistake through the whole of this discussion has been in considering this rule as delegating to the majority of the House a power to be exercised *ad libitum*, for the purpose of suppressing debate altogether, when no such power is

given. The rule, in fact, creates no new power but merely prescribes a practical mode of exercising a power previously delegated by the Constitution; and in the exercise of this power under the rule we are not absolved from the limitation and restrictions to which the original power vested by the Constitution was subject.

I shall not contend that because the Constitution has confided to this House a discretionary power over debate, we are therefore authorized to transfer the exercise of this discretion to any other body. We certainly are not, because this discretion is intrusted to the House in consequence, if I may so say, of a personal confidence reposed in the members as such, and which they alone are to exercise. If, then, we are to make a rule authorizing the Speaker, for instance, or any number of members less than a majority, to suspend debate, whenever they might think proper, this would be violating the Constitution, because it would be creating a new power, or, which is the same thing, reposing a discretion where it was not authorized by the Constitution. But, inasmuch as the proposed rule confides this discretion to a majority of the House, which, technically speaking, is the House, it places the power precisely where the Constitution had placed it, and therefore, being in conformity with the Constitution, cannot be a violation of it.

I presume it will not be contended that the power given to the House in relation to the subject is a mere power to make rules, but that these rules must be so made as to be certain and positive in their operations, and preclude the exercise of any future discretion in the application of them. Such a principle once assumed must be carried through. If we can have no discretion over one subject, so never can we over another, and the application of the principle would go to overthrow a great part of the rules by which this House, as well as every other similar body, has always been governed. It would take away the discretion of the House as to the times of its daily meeting and adjournment. It would take away our discretion as to the priority of subjects on which we may act. It would take away our discretion as to the causes for which a member may be expelled, because all these discretions might be abused. I say, therefore, sir, that the rule cannot be unconstitutional on the ground of its adopting a principle which has been recognised by the immemorial usage of this House.

But, sir, I confess that the objection which has been made to the unconstitutionality of the proposed rule is, so far as it goes, a fair objection to its expediency, to wit: that it places a power in the hands of the majority which may, on the spur of the occasion, and in a bad temper, be exercised indiscreetly and oppressively on the minority. It is better that our rights should be defined than contingent, and if a rule can be devised by which the rights of the minority to make speeches can be put out of the power of the majority, and which rule shall not at the same time invest the minority with a power to prevent the majority from the performance of their Constitu-

JANUARY, 1810.

Previous Question.

H. OF R.

tional duties, this is the very rule which I would wish to see adopted, and would support with all my heart. But, sir, such a rule is impracticable; it is not in the nature of the subject. I defy you or any other member of this body to form a standard rule by the application of which to any future debate you can determine whether that debate be reasonably or unreasonably conducted. The subject is intangible. It is not to be controlled by pre-established rules. The liberty and licentiousness of speech have been happily compared to the colors of a changeable silk, in which you may distinctly perceive that there are two colors, but you can neither tell where the one begins or the other ends. You cannot mark by any permanent rule the boundaries between liberty and licentiousness, like the colors of the silk, which do not depend upon any intrinsic difference in the texture or dyes of the different parts of the cloth, but which are accidental effects of the light and shade and position. So the character of debate, as to liberty and licentiousness, cannot be determined by the nature of the subject adopted, nor by the number or length of the speeches which may be made; but it will depend on the accidents of time, place, and circumstances. That which at a time of imminent pressure and peril, such as I have before alluded to, requiring the immediate interposition of the legislative powers of this House, might be deemed the most insufferable abuse of the liberty of speech, might, at another time and on another occasion, be considered as perfectly reasonable and proper. As the subject, then, is in its nature wholly unsusceptible of regulation, it must be left to the sound discretion of the House, to be exercised in each particular case.

The amendment of the rule proposed by the gentleman from Massachusetts (Mr. QUINCY) affords as strong an argument as could possibly be adduced against the practicability of reducing the powers of the House, in relation to this, to any fixed laws. His amendment proposes to limit the power of the majority as to taking the previous question, by providing that it shall not be put until every member shall have had an opportunity to speak once to the main question. I confess that this amendment is plausible, and it would even be unexceptionable could any provision of this nature be so, because it restricts the rights of the minority, or in other words the freedom of debate—as far as they can be restricted by any general rule. The right to speak at all, necessarily includes the right to speak once; and as we can make no discrimination between the privilege of the different members, a rule permitting each member to speak only once would be as rigid a limitation of the liberty of speech as could be imposed; and yet a rule, even with this limitation, would be putting the majority completely in the power of the minority. Let us see what would be the effect of such an amendment.

The present minority, as the gentlemen have been pleased to call themselves, consists of something more than forty members. Among these it seems to be ascertained, if my colleague (Mr. GARDENIER) is correct in his estimate, that there

are at least thirty, each of whom can speak sensibly on any subject for three hours together. It is not, however, to be presumed that every minority will be blessed with such extraordinary powers of speech. Not, therefore, to take an extreme case, we will suppose that these thirty members, instead of three hours, could only speak three minutes sensibly on any question. Suppose these members, with these considerable means, should enter into a combination—but I am now following out the course marked out by the opponents of the rule, and am arguing not what will be the probable use, but what may be the possible abuse of power—each minority man would then occupy three minutes with his main speech. But suppose that during the speech he should, by way of protracting the debate, or by way of episode, (if an episode be a proper appendage of a speech,) make only two motions for an adjournment, and back these motions by a call for the ayes and noes, which he would have a right to do, by an express provision of the Constitution, a provision of which the gentlemen seem peculiarly tenacious on questions of adjournment; the speech then, with its episodes, would occupy about one hour, and the whole thirty speeches would consume thirty hours, or one week of the time of this House. When the main question should thus have been fully and constitutionally discussed, according to the idea of the gentleman from Massachusetts, an amendment to the main proposition might be offered, which would bring a new question before the House, and in which the gentlemen might repeat their former speeches, and consume another week—for I take it to be well settled, from what has passed in the House to-day, that you are not to question the logic of any member, but that he is at liberty to deliver any speech upon any subject, provided he apprizes you that it is to be applied to the subject under debate. In this way amendments might be proposed so long as the subject should be capable of amendments, and after this, questions for adjournment, for indefinite postponement, for postponement to a particular day, and to another particular day, might be multiplied to such an extent as effectually to prostrate the powers of a majority over the licentiousness of debate. It is true, sir, that the case which I have put is hypothetical, but it is so only in the extent to which I have carried it; for we have seen all these arts of procrastination practised with the most perfect success, and they have been carried so far as wholly to prevent the passage of a law, only because the majority have not thought it proper to exercise their power to such an extent.

The only question, then, that remains is, will it be better to make a rule to invest the minority with a power which they may abuse so as to subvert all law and place the country in a state of anarchy, or will it be preferable to invest the majority with a power which they may misuse so far as to prevent the liberty of debate in this House? I confess I find no difficulty in the choice. A dumb legislature, as much as it has been burlesqued, would be infinitely preferable in my

H. OF R.

Contingent Expenses—Foreign Licenses to Trade.

JANUARY, 1810.

mind to a mere talking assembly. The one, it is true, might alarm our fears, but it would, as a legislature ought to do, command our respect. The other would only excite our contempt.

I shall therefore vote for the original rule, because I think it the only practicable one in relation to this subject, and because I have no apprehensions that the majority will abuse this more than any other discretionary power given to them by the Constitution. And I shall vote against all the amendments which have been proposed, as unconstitutional, inasmuch as they divest this House of the power to perform its Constitutional duties.

Further debate took place. Messrs. NELSON and PIRKIN supported the motion, and Mr. BASSETT opposed it. An adjournment again put an end to the debate.

WEDNESDAY, January 17.

A new member, to wit: DAVID S. GARLAND, returned to serve as a member of this House for the State of Virginia, in the place of Wilson Carey Nicholas, resigned, appeared, produced his credentials, was qualified, and took his seat.

Mr. POINDEXTER, from the committee appointed on the first of December last, presented a bill extending the right of suffrage to the citizens of Madison county, in the Mississippi Territory; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. JOHNSON, from the Committee of Claims, presented a bill for the relief of Isaac Briggs; which was read twice and committed to a Committee of the Whole on Wednesday next.

The House resolved itself into a Committee of the Whole, on the bill for the relief of Harry Caldwell and Amasa Jackson.

[This bill is to release the brig Joseph Ricketson, seized under the act prohibiting the importation of slaves, for having, on the 25th day of July last, taken on board three refugees from Cuba, with their domestic slaves, six in number, and landed them at New Orleans.]

This bill was amended so as to include similar cases of Levin Jones and James Reynolds; and, thus amended, reported by the Committee of the Whole, and ordered to be engrossed for a third reading.

The House resolved itself into a Committee of the Whole, on the bill for the relief of John N. Stout. [This bill authorizes the settlement of the claim of Mr. Stout as keeper of the district jail in Kentucky, for certain services.] The bill was gone through, reported to the House, and ordered to be engrossed for a third reading.

The House resolved itself into a Committee of the Whole, on the bill authorizing the removal of slaves from one part of the District of Columbia to another. The bill being gone through without objection, was reported to the House, and ordered to be engrossed for a third reading.

Mr. NEWTON reported a bill "for the benefit of American seamen."

[This bill provides that no vessels shall hereafter enjoy the benefits and privileges appertain-

ing to vessels of the United States, unless the mate, as well as the captain, and the mariners or crew of the vessel, or at least — of them shall be citizens of the United States.]

The bill was twice read, and referred to a Committee of the Whole.

DANIEL BRADLEY.

Mr. JOHNSON, from the Committee of Claims, made a report on the petition of Daniel Bradley, referred on the fifteenth instant; which was read, and ordered to lie on the table. The report is as follows:

That it is stated by the petitioner, that he, in 1798, was ordered with a detachment out of the 4th United States' regiment under his command to remove intruders from lands claimed by the Cherokee Indians; that, becoming obnoxious to those whom he removed, some of the party privately took from him a valuable horse which the petitioner had with him, and which he considered necessary to perform his duty, carried said horse to a private place on Cumberland mountain, and shot him; and concludes by praying compensation for the value of said horse. The committee have no evidence independent of the petition as to the facts in this case; and assuming the ground that the facts are true, no compensation ought to be granted, for it does not appear that it was made the duty of the petitioner to have a horse in the discharge of his duty as an officer; nor does it appear, if that were the case, that the Government was to find him a horse. The committee, therefore, recommend the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

CONTINGENT EXPENSES.

Mr. BURWELL offered the following resolution:

Resolved, That the Committee of Accounts be instructed to inquire into the manner in which the contract with the Clerk for supplying this House with stationery has been executed; and, also, the expediency of changing the present mode of supplying the members so far as to furnish, at the commencement of every future session, to each member a quantity of stationery not exceeding — dollars in value.

After debate, the first clause of the resolution was agreed to without a division; and the second clause was agreed to by yeas and nays—111 to 8.

The unfinished business of yesterday was postponed till to-morrow—59 to 47.

FOREIGN LICENSES TO TRADE.

The House resolved itself into a Committee of the Whole, on the bill to deprive, in certain cases, vessels of their American character, &c.

Mr. FISK said, as he was in favor of the bill, and the principal objection which had been made to it was that it could not be enforced; to meet that objection he thought proper to offer the following amendment as a new section to the bill:

"And be it further enacted, That, for the purpose of enforcing obedience to this act, the President of the United States shall be, and hereby is, authorized to employ such portion of the Navy of the United States as he shall deem necessary, which force, so to be employed, shall act in conformity to instructions to be furnished to the commanders by the President, directing them to examine and send into the nearest port in

JANUARY, 1810.

West Point—Detachment of Militia—Patent Rights.

H. OF R.

the United States for adjudication and punishment those detected in violating this act."

The Committee then rose, reported progress, and obtained leave to sit again; and Mr. Fisk's amendment was ordered to be printed.

WEST POINT.

Mr. GOLD, after some remarks on the state of the public property, and the doubts existing as to the boundary line of the public land at West Point, on the subject of which suits had been, or were about to be, brought by claimants, offered the following resolution, which was adopted:

Resolved, That a committee be appointed to inquire into the state of the public Arsenal at West Point, in the State of New York, and the condition of the public property there deposited, and to consider of the means necessary for the security and preservation thereof; and, also, to inquire into the expediency of providing by law for ascertaining and settling the controverted boundary of the public land at said place, and that they have leave to report by bill or otherwise.

Mr. FISK rose to offer a resolution in some degree connected with the subject embraced by the resolution submitted by his colleague. It was well known that this fortification had been, and might be again, a very important station. It was now out of repair, and might be put into a state of repair with a small sum of money. For the purpose of inquiring into this desirable object, he submitted the following resolution:

Resolved, That the committee appointed on so much of the Message of the President of the United States as relates to our fortifications be instructed to inquire into the expediency of repairing the fortifications at West Point, and that they have leave to report by bill or otherwise.

The motion was agreed to.

DETACHMENT OF MILITIA.

The House resolved itself into a Committee of the Whole on the bill authorizing a detachment of the militia of the United States.

[This bill provides for a detachment of 100,000 militia, to be ready to march at a moment's warning, but not to serve a longer time than six months after they arrive at the place of rendezvous. Volunteers may be accepted.]

On motion of Mr. TALLMADGE, the blank for the sum to be appropriated and held in readiness to carry into effect the intention of the bill, when necessary, was filled with one million of dollars.

And, the bill being gone through, the Committee rose, reported progress, and obtained leave to sit again.

The reason why the Committee did not report the bill to the House, was a suggestion, by Mr. DANA, of a wish to obtain information on the manner in which the former acts of a similar nature had been carried into effect. For which purpose, Mr. D. moved a resolution calling upon the Secretary of War for information of the manner in which the late laws authorizing detachments of the militia of the United States had been executed. But, before a question was taken on the resolution, the House adjourned.

11th Con. 2d Sess.—39

THURSDAY, January 18.

Mr. LOVE, from the Committee for the District of Columbia, presented a bill to amend an act, entitled "An act for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia;" which was read twice and committed to a Committee of the Whole on Tuesday next.

A motion was made by Mr. DANA, to rescind the vote taken yesterday upon a resolution proposed by him; and the question being taken thereon, it was resolved in the affirmative.

A motion was then made by Mr. DANA, that the House do come to the following resolution:

Resolved, That the Secretary for the Department of War be directed to lay before this House a general account of the returns of the respective quotas of the two last detachments of one hundred thousand militia, including volunteers, required of the several States and Territories by the President of the United States, in pursuance of the law respecting such detachments.

And the question thereon being taken it was resolved in the affirmative.

An engrossed bill for the relief of Harry Caldwell and Amasa Jackson, and others, was read the third time.

Resolved, That the said bill do pass, and that the title be, "An act for the relief of Harry Caldwell and Amasa Jackson, Jeremiah Reynolds and Levin Jones."

An engrossed bill for the relief of John N. Stout was read the third time, and passed.

An engrossed bill to authorize the removal of slaves from one part of the District of Columbia to another was read the third time and passed.

PATENT RIGHTS.

Mr. BACON reported a bill for the encouragement of learning and promotion of the useful arts.

[This bill extends the privilege of obtaining a patent for any new invention or discovery, to any person residing within the United States, whether a citizen or not. The former laws on that subject restricted this privilege to citizens of the United States, or to persons who had resided two years therein. In lieu of the present term of fourteen years, for which patents are granted, the bill provides that an inventor, upon paying thirty dollars, may receive a patent right to his invention for a term of seven years, at the expiration of which time, upon paying sixty dollars, he may renew his patent for a second term of seven years, and after that upon paying ninety dollars may renew it for a third term of seven years; and all former patentees for a term of fourteen years under the present laws, may renew their patents for one term of seven years. That the damages to be recovered by patentees for violations of patent rights shall in no case be less than three times the price at which the right to use the invention patented has been usually sold by the patentee. That the Secretary of State may, with the concurrence of the Secretaries of the Treasury, War, or Navy Departments, or any two of them, refuse altogether to issue a patent to any person claiming it. That the Secretary of State shall publish

annually, in a newspaper printed at the seat of Government, a list of all patents granted the preceding year, to whom and for what purpose. That the President of the United States be authorized to cause to be built a suitable building for the reception and preservation of the books, maps, charts, models, and designs, of the authors and inventors, which may be deposited therein agreeably to the provisions of the bill. The residue of the bill is an adoption of most of the principles of the former patent laws, with some variance in the details; and repeals all former laws on the subject after the 30th of September next, when this act is to take effect.]

The bill was twice read, and referred to a Committee of the Whole.

INSTRUCTIONS TO ARMED VESSELS.

Mr. DANA observed, that instructions had been issued at various times for the conduct of our armed vessels. He supposed that it might be convenient to gentlemen to have a collection of them, whatever they may have been, that they might have a whole view of the subject. He was aware that instructions have been given, perhaps by all the different Administrations, which it might be thought proper should not be communicated; and had therefore made an exception as to such. He said he had drawn the resolution in such a manner as to be perfectly impartial in respect to former Administrations, and strictly respectful as respected the present President of the United States.

The following is the resolution offered by Mr. DANA, which was agreed to:

Resolved, That the President of the United States be requested to cause to be laid before the House, copies of the orders or instructions issued under the present or any former Administration, with respect to foreign armed ships or vessels, of whatever description, being within the waters of the United States, excepting such parts as may, in his judgment, be improper for communication.

Messrs. DANA and GARLAND were appointed to wait on the President of the United States with the resolution.

AMERICAN NAVIGATION ACT.

The House resumed the consideration of the report of the Committee of the Whole on the bill concerning commercial intercourse with Great Britain and France, and for other purposes.

The amendments reported by the Committee of the Whole under consideration.

A motion was made by Mr. LIVERMORE to strike out several sections of the bill.

The SPEAKER decided that such a motion could not be made, until the amendments, reported by the Committee of the Whole were decided on.

Mr. LIVERMORE appealed from this decision; which was reversed by the House, 65 to 48.

Mr. LIVERMORE then moved to strike out the fifth section.

Mr. HAVEN said, that since he had been a member of that honorable House he had taken no active part in the discussion of the various and im-

portant subjects which had been presented for consideration; that he had listened with attention to gentlemen better qualified and more accustomed to debate than himself, and had been satisfied in giving a silent vote. But on this motion he trusted he should be excused, while he deviated from the rule he had prescribed to himself, and attempted to offer a few thoughts on the bill under consideration.

From the observations which had fallen from gentlemen from every part of the House, while the bill was under consideration in Committee of the Whole, there appeared, said Mr. H., to be but one sentiment as to the propriety of passing the first and second sections, which interdict the entrance into our ports and harbors of the public armed vessels of Great Britain and France, the two great belligerent Powers. There appeared also to be no difference in sentiment as to the propriety of the eleventh section, which repeals the present non-intercourse system—at least he had not heard any gentleman advocate the continuance of that system; all were convinced of its total inefficacy, either as a system of coercion or retaliation. It was therefore on the other sections of the bill on which gentlemen differed in opinion, as to the effect which their operation would produce both on ourselves and the belligerents.

It is urged, observed Mr. H., by those who advocated the passage of this bill, that its tendency will be to give to American shipping the exclusive privilege of transporting to market all our important exports, and also of bringing into the United States the manufactures and productions of other countries which we receive in exchange. In short, that to American shipping would be exclusively confined, so far as respects Great Britain and France, the whole of our export and import trade. Such a state of things was truly desirable, it was consonant to the feelings and wishes of every true American. And, sir, could I be convinced that the passage of this bill would have the remotest tendency to produce such a state of things, and leave us at the same time in the full enjoyment of commerce, I would most cheerfully give the bill my hearty support. But, while we are about to enact laws which very materially affect other commercial countries, it is the part of wisdom to inquire, what will probably be the operation on them, and whether the reaction on ourselves will not be ultimately injurious. There are usually two sides to a bargain, and in this point of view most commercial regulations should be considered. What will be the effect of this law on Great Britain, unquestionably the greatest commercial Power in the world? She will find her commercial flag interdicted an entrance into our ports and harbors, and the accustomed rights of hospitality almost denied her. What conduct should we naturally expect she will pursue on such an occasion? Will it not be, that your flag will be excluded from her ports and harbors? But gentlemen say, we have nothing to fear from this, that the great importance of our exports to her, the necessity of her having a supply of our raw materials for the prosperity of her

JANUARY, 1810.

American Navigation Act.

H. OF R.

manufactures, and her great anxiety for disposing of her manufactures, will present arguments sufficiently cogent to induce her not to adopt such a measure. This may be true, and I am willing to accord in sentiment with those who believe that American shipping will not be interdicted an entrance into British ports; but that some measures of retaliation will be adopted I have no doubt. We cannot expect that Britain will surrender to us this exclusive commerce, if by new regulations, she can give further encouragement to her own navigation, and at the same time not prevent a supply of our raw materials, nor restrict the exportation of her manufactures, we may be assured she will adopt them. And that this object can be effected by additional duties on imports in American vessels, and by an increase of tonnage duty will be evident to the mind of every gentleman who reflects on the subject. And what sir, will be the consequence of such a measure? Will it not bring about the very state of things which we now so much deplore? Will it not give to Great Britain the carrying trade of our produce? The direct trade I do not mean, (for her vessels will be excluded our ports,) but the circuitous trade, the trade which, by the operation of our non-intercourse system, she at this time monopolizes. To exemplify my idea, should a new countervailing duty of three pence per pound be laid on cotton when imported into Great Britain in American vessels, and should be admitted free of duty in British bottoms, this duty will be more than equivalent to an ordinary freight across the Atlantic; and the consequence will be, that the Southern planter will find a better market for his cotton in Amelia island than in Great Britain; and by the bill he is not prohibited from exporting his cotton where he pleases. Thus, sir, though our import trade from Great Britain in American bottoms may continue uninterrupted, yet our export trade, so far as respects the transporting of our produce to its ultimate market, a trade of infinitely greater magnitude, will be wholly cut up.

Again, sir, in regard to France, the other great belligerent—what will probably be the operation of this bill so far as respects that Power? At present, in consequence of the British Orders in Council and the Berlin and Milan decrees, all direct trade with France is suspended—it is too hazardous to be undertaken. But an indirect trade with her to a very considerable extent is carried on—large quantities of American produce find their way into France, through some ports in the North of Europe through Spain, and ports in the Mediterranean not included in the British Orders in Council, and we receive in return French wines, brandies, &c. Now, sir, by this bill all this trade will be annihilated. We may indeed get our produce into France in this indirect mode, but it is well known the means of payment for this produce is afforded by the exchange of their produce in return, which it is impossible to import direct from France during the operation of the Orders in Council, and by the bill we are prohibited from importing directly—thus producing in effect so far as respects France absolute non-intercourse.

Now, sir, I would humbly ask of gentlemen why are we to abandon all this trade—*cui bono?* In the few observations made I have confined myself to viewing the subject in a commercial light; and not having heard any reasons assigned which satisfy my mind as to the necessity or expediency of the measure, I feel obliged to give my vote for striking out the section.

When Mr. HAVEN concluded, the question was taken on striking out the 5th section, and negatived—yeas 50, nays 72, as follows:

YEAS—William Anderson, Ezekiel Bacon, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Clopton, Samuel W. Dana, John Davenport, jun., William Ely, James Emott, Barent Gardenier, David S. Garland, Charles Goldsborough Wm. Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Richard Jackson, jr., Robert Jenkins, Philip B. Key, Edward St. Loee Livermore, Robert Le Roy Livingston, Matthew Lyon, Vincent Matthews, Archibald McBryde, William Milnor, Jonathan O. Mosely, Benjamin Pickman, jr., Timothy Pitkin, jr., John Porter, Elisha R. Potter, Josiah Quincy, Erastus Root, John Ross, Adam Seybert, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

NAYS—Lemuel J. Alston, Willis Alston, jr., David Bard, William W. Bibb, Adam Boyd, John Brown, Robert Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Howell Cobb, James Cox, William Crawford, Henry Crist, Richard Cuts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jr., Edwin Gray, William Helms, James Holland, Benjamin Howard, John G. Jackson, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, Aaron Lyle, Nathaniel Macon, Robert Marion, Samuel McKee, Alexander McKim, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Peter B. Porter, John Rhea of Tennessee, Matthias Richards, John Roane, Ebenezer Sage, Ebenezer Seaver, Samuel Shaw, Daniel Sheffield, Dennis Smelt, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, Jacob Swoope, John Taylor, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jr., Archibald Van Horn, Robert Weakley, Robert Whitehill, and Robert Witherspoon.

Several amendments made to the bill in Committee of the Whole were agreed to.

Mr. MACON moved to strike out of the clause limiting the duration of the bill till the end of the next session of Congress the word "next" and insert the word "present," so as to limit the bill to the end of the present session.

Mr. PITKIN expressed his astonishment at such a motion. Could any object be answered by excluding foreign ships, &c., for two or three months? Were gentlemen afraid that the British Parliament should hear of the bill and countervail its provisions by that time? If that was the object, he wished it to be stated.

Mr. RHEA, of Tennessee, moved to strike out

the whole of the clause of limitation. He could not see what reason there could be for limiting the existence of the law even to the next session of Congress. He required the yeas and nays on his motion.

Mr. LIVERMORE regretted exceedingly that any opposition should be made to the motion of the gentleman from North Carolina, for certainly the sooner there was an end to the bill the better.

Mr. MACON said that the bill had grown out of the present situation of the United States, and was only intended to meet that situation. It never was intended to make this a permanent regulation; for, after the present state of things was done away, there would be no necessity for the bill. He could see no good to be answered by striking out the limitation, because no one had an idea of its remaining in force after our disputes with the belligerents were settled. Before the end of this session, which probably would be a pretty long one, Congress would have had experience of the bill. If it was found to be injurious, it might be suffered to expire; if beneficial, it might be re-enacted. Before the end of the session, also, we should hear from England and France, and it would be known what course they would take. If we were to have war, the bill would be useless.

Mr. SHEFFEY observed, that striking out this clause would not continue the law after the belligerents should have revoked their edicts against our neutral rights; for there was an express provision in the bill that whenever they were so revoked the President should rescind the law as to the Power relaxing its decrees. It was a bill to be in force until the relations with the belligerents were changed, either by actual war, by a revocation of their edicts, or by new legislation. There could then be no reason for its limitation. Was it the object of gentlemen, he asked, that this bill should expire before one of these changes took place? If gentlemen were not satisfied that the bill was proper to be continued in force till a change in our relations, this acting experimentally was improper. Now, Mr. S. said, either England and France would continue their decrees, or they would not. If they did continue them, this bill would operate. Would gentlemen give them a right freely to enter our waters as long as they continued their edicts? He presumed not. Either England would countervail the provisions of the bill, or she would not? If she did, it would become a new subject of legislation. The course hereafter to be pursued by us would depend on her own conduct. By limiting the bill as proposed, they would throw out to the world the idea that they were afraid of the experiment, and therefore had limited its duration. It would show that the whole bill was a mere experiment; and therefore Mr. S. said, he should vote for striking out the clause altogether.

Mr. QUINCY said that the observations made by the gentleman from Virginia offered the bill in a new shape. He did not recollect that any gentleman had before advocated this bill as a mode of coercing Great Britain and France, or that

any gentleman had suggested even that it would be an inducement to the belligerents to repeal their edicts.

Mr. SHEFFEY said that the gentleman had certainly mistaken him. He had not supported the bill as a measure of coercion, but had bottomed his support of it on this. The United States had received at the hands of the belligerents nothing but illiberality and injustice. Should we then share our commerce with them? He had not supported it as a measure of coercion, but as a measure of expediency and justice to our own citizens.

Mr. QUINCY said he should know better how to vote on the bill if gentleman would explain what they meant by the provisions of it. Mr. Q. went into an argument of some length to show that the bill could not operate as a measure of coercion, nor even as an inducement to the belligerents to rescind their decrees; nor as a benefit to the mercantile interest of the United States.

Mr. RHEA, of Tennessee, spoke in reply.

Mr. GARDENIER spoke at some length in explanation of the reasons why he should vote for the bill. Before he concluded his remarks, the House adjourned.

FRIDAY, January 19.

Mr. LOVE, from the Committee for the District of Columbia, presented a bill to authorize a jail to be built in the county of Alexandria; which was read twice, and committed to a Committee of the Whole on Wednesday next.

Mr. VAN HORN presented a petition of sundry inhabitants of Alexandria county, in the District of Columbia, stating the many inconveniences to which they are exposed in consequence of the defects in the law applicable to the collection of promissory notes; the law which protects real estate from the liability to the payment of debts; the law which provides that executions shall not issue from one county to another; the law for the relief of insolvent debtors; and the law relating to interest upon bonds, notes, and accounts; and praying that such amendments may be made in the said acts as are therein suggested, or such others as to the wisdom of Congress shall appear advisable and expedient.—Referred to the Committee for the District of Columbia.

A motion was made by Mr. JENNINGS that the House do come to the following resolution:

Resolved, That the committee to whom were referred petitions of the citizens of the Indiana Territory, praying for an extension of their right of suffrage, be directed to inquire into the expediency of authorizing and directing the Executive authorities of the several States and Territories of the United States, respectively, to deliver, upon demand, any person or persons who shall have been charged with any crime or crimes, and who shall have fled from the Territory of Indiana, in which they shall have been charged, and who shall be found in any of the States, or in any other Territory of the United States, to the Executive of the Indiana Territory, to be removed into the said Terri-

JANUARY, 1810.

Convoy and Arming—American Navigation Act.

H. OF R.

tory for trial; and that the said committee have leave to report thereon by bill or otherwise.

The resolution was read, and the farther consideration thereof postponed until Tuesday next.

Mr. NEWTON reported a bill "to prevent the issuing of sea-letters except to certain vessels." The following is the bill:

"Be it enacted, &c., That in future no sea-letter or other document certifying or proving any ship or vessel to be the property of a citizen or citizens of the United States, shall be issued, except to vessels entitled to be registered—any law or laws heretofore passed to the contrary, notwithstanding."

CONVOY AND ARMING.

Mr. BURWELL rose to submit to the consideration of the House the propositions of which he had given notice a few days ago. He should not now enter into a discussion of them, but wished them to lie on the table and be printed. He said, he should, if he had an opportunity, make a motion to recommit the bill now before the House respecting commercial intercourse, for the purpose of ascertaining whether it was the disposition of the House to incorporate these propositions in that bill, or to make them the subject of a distinct proposition.

Mr. B. said, it had always appeared to him, since the abandonment of the embargo, that further commercial restrictions would be unavailing. He had hoped the reasonable course of the Government would have insured a respect to our rights, but he now found the relations between the two countries to be yet unchanged. He said, he had declared some days since, that he was decidedly against war, if it was possible to avoid it, and he was of the same opinion still. He would not, if it could be avoided, engage in a contest with either or both of the belligerents, or connect the nation with either of them. At the same time, however, he was equally confirmed in the opinion that the time had arrived when it became the duty of the United States to maintain by force, if necessary, their right to carry on commerce to every country which will receive it on fair and honorable terms. The object of the resolution he was about to submit, was, to obtain a decision of the House, whether they would employ our naval force to convoy our trade to those nations not having in force decrees against our commerce, and whether they would permit associations among our merchants for the purpose of arming and defending themselves in their trade to any foreign nation. At the same time, Mr. B. said, it was proper to declare it as his opinion, taking a view of the uncertain situation of affairs, and having reference to the late negotiation, and the possible course which may be pursued by the British Government in relation to this country, that it was a duty which they owed to themselves and to the nation to place the country in the best state of defence. With that view, he said, he would co-operate in any system which might be digested for preparing for war. He again declared that it was not his object to promote a war system. His object was merely defensive, as it contem-

plated nothing more than to defend those rights of the United States which were not questioned in this House or elsewhere by any American, whatever his political opinion. Whenever the nation was called upon to take this course, he hoped it would be able to defend its rights. In presenting this proposition to the House, he had merely offered his view, which it would be presumption in him to say was entirely correct; but it was the result of his mature consideration. Mr. B. then read the following resolution:

Resolved, That the President of the United States be required immediately to employ the public armed vessels for the purpose of convoying and protecting the ships and vessels, the property of citizens of the United States, laden with goods of their growth, produce, or manufacture, and not contraband of war, in their trade to and from ports open for their reception by the regulations of the Government under whose jurisdiction they are situated, and not being actually blockaded or invested by a competent force: *Provided*, such Government shall not have in force edicts or decrees against neutral commerce; and that the owners and crews of merchant vessels owned, laden, or destined as aforesaid, be permitted to associate and arm for their defence against illegal capture and molestation, under such regulations as shall be prescribed by law."

Mr. B. said, there were two other views of this subject, which he had not touched upon. It would be hereafter for the House to decide whether it would be proper to permit the public vessels of the United States to recapture vessels taken under orders and decrees; and whether it would be proper to authorize the merchants to associate and arm, and to permit them to capture any vessel by which they may be attacked.

Mr. DANA suggested the propriety of the variation of a word in the resolution, which was more peremptory than the style generally used when speaking of the President of the United States. Heads of Departments were *required*, but the President was generally *requested* or *authorized* to do any act. Mr. D. said, he was glad that it was brought forward; that a specified proposition was presented which the House could really understand, and which seemed to be approaching somewhat to serious business.

Mr. BURWELL said, he had no objection to the modification suggested, but he thought the expression "request" was confined to calling upon the President for information, a case in which it was at his option to comply or not.

The resolution was ordered to lie on the table and to be printed.

AMERICAN NAVIGATION ACT.

The House resumed the consideration of the bill concerning commercial intercourse with Great Britain and France, and for other purposes.

Mr. RUEA's motion to strike out the limiting clause yet under consideration.

Mr. STURGES.—Not being a merchant, and as the honorable gentleman from New Hampshire (Mr. HAVEN) did yesterday, in a very able and lucid manner, in my opinion, point out what would be the operation of the particular provis-

ions of this bill, and the probable results, I shall confine myself to the general principle.

It may properly be viewed in two respects : 1. As a commercial regulation, as a pacific commercial regulation merely. 2. As a coercive, hostile measure, intended to compel our enemy to do us justice for the injuries she has heretofore inflicted, and a preventive against future injuries. This bill has been called a navigation act. With much parade it has been termed the *American Navigation Act*.

Sir, I never had a very high opinion of navigation acts. I very much doubt whether any nation which has adopted them has ever derived any real commercial advantages from them. The great error of legislation in this respect has been, I apprehend, that they have done too much ; they have been too much disposed to meddle in a concern they had nothing to do with. If Legislatures would be contented with giving protection to the citizen in the enjoyment of his rights, they would do (generally speaking) as much as they ought to do. Leave it to the ingenuity of the citizen, and his own sense of interest how to direct his industry ; his advantage would thereby be much better promoted, and of course much greater would be the advantage of the community to which he belongs.

Our attention is very often called to the famous navigation act of Great Britain. If any commercial benefits have ever been experienced by that nation from that law, they have been accidental. It is certain that that measure did not originate in any cool, wise considerations or calculations of commercial advantages. Every gentleman here present must know the circumstances under which it was adopted. It was enacted during the usurpation of Cromwell—a time of faction—and was dictated by a spirit of animosity towards their neighbors, the Dutch, and with whom the English Commonwealth, so called, soon after engaged in a most cruel and unjust war. It is even at this time, and has ever been problematical in the opinion of the best writers upon political economy, whether that measure has not, in a commercial view, proved injurious to the English. Being a naval power, that it may have contributed to their defence, will not be denied. But such an object or such effects are not contemplated or wished for by the friends of the bill now under consideration.

The celebrated Adam Smith, in his "Inquiry into the Nature and Causes of the Wealth of Nations," speaking of those cases in which it will generally be advantageous to lay some burden upon foreign for the encouragement of domestic industry, says :

"The first is, when some particular sort of industry is necessary for the defence of the country. The defence of Great Britain, for example, depends very much upon the number of its sailors and shipping. The act of navigation, therefore, very properly endeavors to give the sailors and shipping of Great Britain the monopoly of the trade of their own country, in some cases by absolute prohibitions, and in others, by heavy burdens upon the shipping of foreign countries."

And after mentioning the principal dispositions of their navigation act, and which contains several of the principles of the bill now under consideration, which are mostly objectionable in my mind, he proceeds to say :

"When the act of navigation was made, though England and Holland were not actually at war, the most violent animosity subsisted between the two nations. It had begun during the government of the Long Parliament, which first framed this act, and it broke out soon after in the Dutch wars during that of the Protector and of Charles the Second. It is not impossible, therefore, that some of the regulations of this famous act may have proceeded from national animosity. They are as wise, however, as if they had all been dictated by the most deliberate wisdom. National animosity, at that particular time, aimed at the very same object which the most deliberate wisdom would have recommended—the diminution of the naval power of Holland, the only naval power which could endanger the security of England."

"The act of navigation is not favorable to foreign commerce, or to the growth of that opulence which can arise from it. The interest of a nation in its commercial relations to foreign nations is, like that of a merchant with regard to the different people with whom he deals, to buy as cheap and sell as dear as possible. But it will be most likely to buy cheap, when by the most perfect freedom of trade it encourages all nations to bring to it the goods which it has occasion to purchase ; and for the same reason it will be most likely to sell dear, when its markets are thus filled with the greatest number of buyers. The act of navigation, it is true, lays no burden upon foreign ships that come to export the produce of British industry. Even the ancient alien's duty, which used to be paid upon all goods exported as well as imported, has, by several subsequent acts, been taken off from the greater part of the articles of exportation. But if foreigners, either by prohibitions or high duties, are hindered from coming to sell, they cannot always afford to come to buy ; because coming without a cargo, they must lose the freight from their own country to Great Britain. By diminishing the number of sellers, therefore, we necessarily diminish that of buyers, and are thus likely not only to buy foreign goods dearer, but to sell our own cheaper than if there was a more perfect freedom of trade. As defence, however, is of much greater importance than opulence, the act of navigation is perhaps the wisest of all the commercial regulations of England."

These are the lessons of wisdom and of common sense ; and if legislators would study them, reflect and practise upon them more than they have done, the citizen in his commercial enterprises would probably prosper in a higher degree, and the Government itself experience less difficulties. Our commerce has been uncommonly prosperous. Experiments of this kind are highly dangerous. Supposing there is a possibility that the measure proposed if adopted may prove beneficial. Will any gentleman have the confidence to say he is certain it will prove so ? And can any one think it wise and discreet upon a mere possibility or conjecture to hazard an experiment of this kind upon so important a subject ?

Sir, we are young and inexperienced. We are about to compete in a commercial warfare, with

JANUARY, 1810.

American Navigation Act.

H. OF R.

an old and experienced nation—with adepts in this science. It cannot be considered as derogatory to the sagacity of our Councils to doubt whether our skill is equal upon subjects of this kind to that of our enemy. But grant that there is nothing in this circumstance against us. Our enemy has a power to enforce her regulations which we have not, and this certainly must give her an important superiority. Our commerce has heretofore prospered, not owing to the regulations of the Government, but to the free unembarrassed enterprises of the merchant. Every judicious and candid merchant will tell you that the check our trade has received, has in a great measure been caused by our own unwise interference.

A gentleman from Virginia (Mr. BURWELL) the other day informed us, that the operation of the provisions of this law would almost solely be in favor of the Northern shipping interest; and he expressed his surprise to hear objections from that part of the Union. It does so in appearance, and that is all; it is only appearance.

That gentleman will pardon me when I say I do not, and cannot thank him for the boon he tenders to us. I seriously believe that the bill, if it shall pass, will nearly destroy the whole commerce of the country. Our commerce being destroyed, the discriminations it proposes will afford a miserable compensation to any portion of the community. If that gentleman and others are willing to benefit us, we request them to take off and keep off the shackles; let us have a free trade; permit us to be freemen; for such a boon we will sincerely thank them. If it is thought inexpedient to protect our commerce, at least leave it to shift for itself.

If Great Britain should accept the gauntlet we propose to throw to her, and she should retaliate by countervailing regulations, can any man in his senses doubt who will be the greatest losers in the contest? It is unnecessary to be precise in stating the amount of our products exported to her and her dominions, or the amount of her manufactures into this country; suffice it that I am correct in stating that the greatest proportion of our domestic produce goes to her markets, and a very trifling part, comparatively, of her products and manufactures comes to ours.

Mr. Speaker, I have hitherto considered the bill as merely a commercial regulation. I will now view it, secondly, in another aspect, viz: as a hostile, coercive measure, intended to compel our enemy to do us justice for the injuries we have received from her.

I shall not deny upon this occasion that the injuries we have received from her have been many and great; that strictly, according to the former practices and usages of nations, we have had just causes of war. But still I must be allowed to say that our Government has not been immaculate—they have not been faultless. But, allowing our injuries to have been ever so enormous, will any one, after our long and sad experience, say that this is the way to avenge them? Will it not be making bad still worse? Can this

possibly be an effectual remedy for our just complaints? Sir, it is a continuation of a system of errors, which originated in an error four years ago, and it is like all other errors committed by an individual or a community, which, if unretracted, will always progress and increase so as to involve their authors in difficulties greater and greater. We ought to have the magnanimity at least to stop and reflect. The sooner certainly the better.

It is candidly confessed by the gentleman from Virginia, (Mr. BURWELL,) that the injurious effects predicted of the non-intercourse act have been verified; that it has operated detrimentally to our own country, and beneficially to our enemy; that the grower of his products has greatly suffered in the depression of his price, and that the price of every article imported has been much enhanced.

Will not that gentleman be also so candid as to acknowledge that the evils predicted from the partial non-importation law which passed in 1805-6 have been verified? That gentleman was not a member of Congress at that time, but we that were then members, know that it was then foretold no good could possibly come from it; that its only tendency would be to increase the irritation and widen the breach between the two countries.

Will not that gentleman be also so candid as to acknowledge that the evils predicted to arise from the embargo have been verified?—that sovereign remedy for all our diseases—a measure which was to bring Great Britain to our feet, by depriving her of the necessaries of life, and the raw materials so indispensable to her as a manufacturing nation! But, sir, I forbear to dwell upon this delicate topic. I know it is calculated to excite unpleasant sensations.

And will not gentlemen be so candid as at least to ponder and hesitate before they say with too much confidence that the evils predicted from the measure now proposed, if adopted, will not also be verified?

I entreat every gentleman to candidly and seriously ask himself this question: If the embargo could not so distress our enemy as to bring her to terms, is there a possibility that this measure will?

I object to the proposed measure, as its effects are calculated to degrade the American character still more than it is. You cannot maintain your honor and dignity by this system of railing and scolding. If it is the wish and intention, by measures of this kind, to provoke and produce war, it would be much more manly and magnanimous to prepare ourselves and declare it. It would have a tendency to command the respect of our citizens, and the respect, and, if possible, the fear of our enemy. But let it be understood that I am not for war. I think it both unnecessary and inexpedient. But we must do something. This is frequently said in private conversation. This is a principle (as it is understood by those who say it) I do not subscribe to. Sir, I had rather do nothing than do something which is

H. of R.

American Navigation Act.

JANUARY, 1810.

worse than nothing. If I find myself sick, if I cannot get a medicine which will be salutary, I will not take poison or any other prescription which will have no other effect but to increase my disorder.

It is also said, a further attempt is to be made at negotiation, and the President must have something in his hands to aid him in it. This has always been the plea; it was at the time of passing the partial non-importation law; of the embargo; of the non-intercourse. Such kind of weapons will not answer; their inefficacy has been tested by too much experience. But it is asked what will you do? You Federalists, you minority men, are forever objecting, opposing, and for pulling down. I confess this character pretty justly belongs to us. We are opposers and objectors; your system ought to be opposed and objected to. If it is not destroyed, we seriously believe that ruin will ensue. The remedy is to pull down the building you have erected; remove the rubbish; make the way clear once more; its foundation is in the sand; the longer it is continued, the more tottering it will become, the more dangerous its fall; for it will assuredly fall. Our cause is not yet desperate. I humbly trust that Heaven has in store many blessings to be showered down upon this once favored land, whenever we will in earnest, and as honest and skilful workmen, endeavor to help ourselves. Sir, as the amendment now under consideration proposes to make this a permanent law, I shall vote against it. And, if adopted, I shall vote against every section of the bill.

Mr. CURTIS said that following the example of other gentlemen, he should, on this question, express his opinion on the principles contained in the bill now before the House; in doing this he felt some diffidence, as his sentiments on the operation of this bill were so different from those expressed yesterday by a gentleman from New Hampshire; however, he would proceed. When the embargo was given up, the non-intercourse was substituted as a measure of coercion—of commercial restriction—and as a kind of protest against the British Orders in Council and French decrees. Experience has proved that the law cannot be executed; it has been evaded in almost every direction; its continuance seems to be given up by all parties. He had another and very serious objection to its continuance: its operation is partial, it bears particularly hard upon that part of the country which he had the honor to represent; the exports of that part of the country being principally confined to lumber, which was a bulky and cheap article, being wanted almost exclusively in British ports; that it would not bear the circuitous transportation; of course the non-intercourse was almost as effectual as an embargo upon that part of the country.

In relinquishing the non-intercourse, he viewed the principles contained in the present bill as forming a system more energetic than those contained in the non-intercourse law. They could be carried into execution. Gentlemen object to the third section of this bill; if retained, Great

Britain will lay countervailing duties; she has already done it by her act of Parliament of last winter, laying additional and discriminating duties, which were first proposed as a transit duty, afterwards modified and made permanent by said act. It is true the operation of these discriminating duties has not yet been felt in this country. The embargo, non-intercourse, and the disavowal of the arrangement with Mr. Erskine, have prevented British ships from coming here and enjoying the whole carrying trade of this country. If the third section of this bill, which he considered as among its best features, and the only safeguard against British monopoly, together with all the commercial restrictions, were stricken out as advocated by the opponents of the bill, he would ask gentlemen what would be the practical operation as it respected American vessels. In his opinion it would operate in the following manner: For instance, take the article of cotton. The act of Parliament lays a duty of $3\frac{1}{4}$ pence per pound on cotton when imported in an American vessel, and two pence one-sixteenth when imported in a British vessel; throw away the fraction, and say that the difference is a penny per pound; even this small sum will amount to a complete exclusion of American vessels from the carrying trade. A penny and a half per pound for cotton may be considered as a peace freight. Suppose a British and an American vessel of equal burden—say three hundred tons—should load in one of our Southern ports with that article at one and a half penny per pound, and go to a British port, such a vessel would probably make about nine thousand dollars freight; the cotton on board the American vessel having to pay the additional duty, which at one penny per pound would amount to six thousand dollars, would leave only three thousand dollars for the charter of the ship and disbursements, while the British ship not having the same duties to pay would make a net freight of nine thousand dollars. It is not to be presumed that any merchant will ship on board an American vessel under such circumstances, while a British vessel was to be had; of course ours must lay by the wharves until all the British are employed.

Gentlemen seem to intimate that there is no danger of British vessels coming to this country, and entering into competition with ours. There can be no competition where the balance is so much in their favor, and they infer this from the documents laid on our tables, stating the small amount of foreign tonnage employed in the American trade. Are there no causes for this small amount of tonnage? The embargo, non-intercourse, and the disavowal of Mr. Erskine's arrangement, together with the immense employment Great Britain has given of late to her surplus tonnage in the transport service, is the true cause of so few coming here. Has not the charter of her merchant ships risen from about sixteen to twenty-seven shillings per ton charter for the transport service? While under such pay they had no cause to seek other employment. He begged gentlemen to turn their attention to what

JANUARY, 1810.

American Navigation Act.

H. OF R.

might be the state of things, provided that all the commercial restrictions should be stricken out of this bill, and that the ships of Great Britain should be excluded from Spain, Portugal, and the Baltic; that the transport service should be given up—will not an opening be presented to them in this country? Will they not flock here under the advantages of their discriminating duties, and take the whole carrying trade? What then will follow? Our ships, thrown out of the carrying trade, must lay at the wharves, or return to the lumber business, and by their number overstock the markets.

Sir, are gentlemen under no apprehension that, if they should do away all commercial restrictions, and submit to the discriminating duties of Great Britain and her Orders in Council, that the Continental Powers will not consider this as abandoning the commercial rights of this country, for which we have been so long contending, and exclude us from their ports, as having submitted to all the British impositions? What then will be our situation? He believed it was a well-acknowledged fact, that if the American commerce was excluded from the Continent, the trade to England would not be worth a rush. Take for instance the article of tobacco; this country produces about 80,000 hogsheads annually, and there is supposed to be a crop and a half on hand; Great Britain consumes annually about 12,000 hogsheads. Prohibit the exportation of this article to the Continent, it would pour into Great Britain in such quantities as to glut the market, and thereby reduce the price below the freight and charges. So of cotton and many other articles.

Sir, Great Britain has laid discriminating duties, and issued her Orders in Council interdicting our going to friendly ports. What does the provision in the third section of this bill say? For these acts your vessels shall not be permitted to enter our ports, thereby completely putting to rest the discriminating duties so far as they respect this country. He considered the exclusion of British merchant vessels as the most effectual and energetic measure that could be adopted. It was a measure that could be executed; if we cannot prevent the smuggling of goods, we can prevent the smuggling of ships into our ports.

Mr. Speaker, gentlemen seem to be very much alarmed, lest Great Britain should countervail by shutting her ports to our vessels. This may or may not take place. If she can employ her shipping in any other trade she will not shut her ports to us, but consider the relaxation as beneficial to her, as it will give her the raw materials, the expenditure of much money in her ports, and take away her manufactures. If she cannot otherwise employ her shipping, and the third section remains in the bill, then it will have its effectual operation upon her—the strongest measure that we can adopt against her shipping interest. If the restrictions in the bill are stricken out, it is immaterial to the ship-holders of this country whether she shuts her ports to us, and thereby compels our vessels to lay at the wharves,

or whether she sends such a quantity of shipping to this country under the advantage of her discriminating duties as to take the whole carrying trade to herself, the result is the same.

Mr. C. observed, that if British ships should be admitted freely into our ports with their present advantages, it would drive ours out of the market. They would be obliged to lay at the wharves, or to seek employment in the smuggling trade abroad, by taking British licenses and forged papers. He deprecated this as one of the worst of evils; it was ruinous to our national character; much of our present commercial embarrassment arose from this source. He wished as far as possible to retain the honest carrying trade of the country. He wanted no advantage; only put us upon an equal footing with other nations, and he believed we could enter into a successful competition.

He was utterly astonished to hear gentlemen from the Northern States oppose the bill, who profess themselves friendly to commerce, especially some gentlemen, who have declared that they did not believe that Great Britain would retaliate by shutting her ports. If she does not shut her ports, what more could the Northern ship-holders ask? The Southern members are disposed to give by this bill to the Northern ship-holders the exclusive privilege of carrying their produce to market—a complete monopoly. In this he presumed they would find their account in so doing. At present the freight from the ports of the United States to Amelia was about half a penny per pound; from Amelia to a British port four pence, so that the whole freight amounts to four pence half penny sterling per pound. If this bill should pass it will have a tendency to reduce the price of freight very much—say one-half—in which event the Northern tonnage will find good employment, and the Southern produce carried to market for one-half the present cost. At all events there will be a competition between the British vessels at Amelia and the American in our own ports.

As to the limitation of the bill, he was decidedly of the opinion that it ought to be limited to the next session of Congress. Yet he was almost afraid to vote against the present motion lest the motion made by the gentleman who introduced this bill should obtain. The limitation of the bill to the end of this session of Congress would, in his opinion, destroy the bill; it would render it completely nugatory. He hoped the bill would pass in its present form, and be limited to the next session of Congress.

Mr. Root said he was in favor of the limitation proposed to the bill by the gentleman from North Carolina, (Mr. MACON,) because the fifth section of the bill would not go into operation till the 15th of April, and if it were to expire with the end of the present session of Congress, it would probably never be in force. He wished any course to be taken which would defeat the operation of that odious feature in the bill. There were other sections which he deemed valuable; but the fifth section was one of the most disgusting ever pre-

H. OF R.

American Navigation Act.

JANUARY, 1810.

sented to his view. The reason assigned, said Mr. R., for this provision of interdicting the importation of any produce other than from the port or place where it is grown or manufactured, is, that it is designed to break up this British carrying trade to and from Amelia island and, perhaps, Halifax. But will gentlemen reflect for a moment upon the cause of this sudden growth of Amelia island into notice? But a year ago, and Amelia island was scarcely heard of. You have brought it into notice by your laws, and are now about to pass a law to take away its consequence. Repeal the non-intercourse, remove the cause, and Amelia island will be no longer of any importance. Take away the non-intercourse, and would our merchants pursue this circuitous course? Certainly not, sir. The operation of the fifth section, if really carried into effect, would break up the trade to Amelia island, but whither would it transfer it? The importance of Amelia island would be immediately transferred across the Atlantic; Great Britain will become the depot for all our produce, and the British the carriers of it. Your merchants will make their shipments directly to Great Britain, and she will have the exclusive carriage of our commerce; for, as long as the British Orders in Council and Napoleon's folly continue, we shall certainly not be able to carry our produce to the Continent. We shall ship it to Great Britain, and her licensed smugglers will carry it to Holland, and to ports in other parts of the Continent. It appears to me that this will be more injurious to the American character, than the letting this little island grow into importance.

To be sure, my colleague (Mr. GARDENIER) has told us that the operation of this bill will be a complete non-intercourse with France and a free intercourse with Great Britain, and therefore he likes it. Having the same views with him of its operation, I dislike it. The same cause induces him to approve it. It appears to me that Great Britain, with all her crimes upon her head, is one of the most favored nations on earth. She has issued orders, which she enforces by an immense navy, and the Emperor of France, by sequestering our vessels and cargoes when they go there, aids in enforcing these orders; and, as if that was not sufficient, it appears to me that you are about to lend your assistance also. It appears to me that, under the fifth section of this bill, the produce of France cannot be got here. You may get your produce there. There may be some spot, perhaps, in the North of Europe, or some little spot between the Elbe and Dardanelles through which we can get our produce to France; but still we cannot receive hers in return. This will, in a great measure, prevent shipments thither, inasmuch as our merchants cannot there procure return cargoes. They must go to Great Britain for them. You are about, with what feeble might you have, to enforce the British order in aid of her immense navy and the power of Napoleon. I have another objection to the passage of the fifth section. It appears to me that, however often Great Britain may violate the per-

manent articles of the Treaty of London, commonly called Jay's Treaty, we had rather avoid the infringement of those articles. I believe it is better that we should stand on high ground; that, if ever the happy time shall arrive, either before or after war, (for now a war is waged on one side only,) when we shall come to an amicable adjustment of differences, there will be no pretence which Great Britain can allege for the violation of the ten permanent articles of the treaty. If we were to violate one article of it, our future negotiators would probably have to recede a little. We know the pretences which were formerly alleged for not carrying into effect the Treaty of Peace, because the United States, it was said, had violated one article, and therefore they would not carry into effect that relative to the delivery of the Western posts. The third article of Jay's Treaty, now in existence, provides that there shall be forever an interchange of trade by inland navigation, and otherwise, between the Provinces of His Britannic Majesty and the United States, and that it shall not be prohibited, except in articles altogether prohibited in the Atlantic ports. Now, by this section, sir, we admit British goods by the Atlantic ports, and prohibit their importation through Canada. This provision is a direct infringement of this treaty. Conceiving, then, that this bill, if passed into a law, will be a direct infringement of Jay's Treaty, I am therefore unwilling that the bill should be passed into a law.

The non-intercourse law, it is said, is worse than nothing, because it is not carried into effect, or is evaded. If that law be evaded, how are we to carry this into effect? Will your custom-house officers be able to ascertain, with precision, whether a piece of cloth be manufactured in Germany or Holland, whether, in the Empire of France or the Kingdom of Denmark? Or, if Spain should not be considered as a dependency of France, are its fruits, wines, &c., always distinguishable from those of France? Nothing more is necessary, than for vessels to take an invoice from the port whence they ship their goods, and they will be naturalized in less time than citizens. The merchant makes an oath that he has no doubt the bill of lading is correct. Custom-house oaths are already sufficiently cheap. I am told they can be purchased for two-and-sixpence each. They will soon be worthless, as the bill is inviting our citizens to make false oaths, or cover their traffic in some way falsely at the custom-houses. It will be as easily evaded as the non intercourse. It is not forgotten, when clearances were given for St. Bartholomews, that that became the most productive island in the world. How much Jamaica rum, sugar, coffee, &c., was imported as the produce of St. Bartholomews? Pass this bill, and would not St. Sebastian's, on the Bay of Biscay, very soon produce the best French wines? I presume it would. The provisions of the bill will soon be evaded, and it will only be an inducement to our citizens to become more corrupt than at present. What good is to be derived from the provision of the fifth section? Is it for the advantage of your merchants that they should have

JANUARY, 1810.

American Navigation Act.

H. OF R.

to return with half a freight, or none at all? If they could possibly run into some nook, and sell their produce for a French market, instead of bringing back goods, they would have to go to Great Britain and get a cargo. Your merchants will not thank you for such a provision. If it is to be of no advantage to the Government, if no revenue is to be derived from it, and the merchants are cursing you for passing it, do not, for Heaven's sake, let us sanction it.

I wish, if we are to repeal the non-intercourse, and to have something in lieu of it, that we should have something more substantial and efficient than this bill. If not for commercial benefit, it must be designed for coercion. It may be a feeble coercion to France, because it will be a complete non-intercourse with her. But the Emperor himself will not yield to your wishes for the exclusion of intercourse; because, on your coming into his ports, he subjects your vessels, if not to confiscation, to sequestration. I dislike this mawkish dish, I wish it higher seasoned. I am not for coming down by degrees; I am not for receding, as Great Britain aggresses and advances. I do not know but this bill, with this clause in it, is fated to pass this House; but I really hope that the provision proposed by the gentleman from Virginia, (Mr. BURWELL,) this morning, for convoy and arming, will be incorporated into this or some other bill. If we are to protect commerce, let it be, in some way, to benefit ourselves or operate on our enemies. Will this operate on Great Britain? No, sir; it will not even irritate her so as to induce her to pass countervailing acts. She will thank you for it; it is making her the carrier of everything but the little she wants for her own consumption. With this view of the subject, I hope the motion for making the bill unlimited, will not pass. I wish it to expire before it can come into operation, and, therefore, shall vote to limit it to the end of the present session.

Mr. SAWYER.—It was my intention to offer an amendment to this bill, by way of a new section, allowing the President to grant convoys; but as the gentleman from Virginia (Mr. BURWELL) has brought that forward as a distinct proposition, leaving this bill upon its original ground, I must still continue my opposition to it. This bill, as it now stands, is a remedy we have tried in various shapes already, but still the disease gains upon us. First, we tried it in the shape of a non-importation act; then, in that of an embargo. Last session the non-intercourse was to do wonders, and now this bill is to be a perfect panacea. Gentlemen, in the course of a few months, have got heartily tired of the non-intercourse, (I wish they may not as soon get tired of this,) and have been as violent against it as they were formerly in favor of it. Why, forsooth, say they, the people will not mind it. Well, if our own citizens will not obey an act of their Government, is it likely that foreign nations will? I wish I may be mistaken, but I fear Great Britain will retaliate on us in a way that will make all her former acts lenity in comparison. We to exclude her ships, and expect she will admit ours! The gen-

tleman from Virginia (Mr. SHEFFEY) said, England has adopted this discriminating policy for years, and it is one of the sources of her prosperity. True, but she had some way of enforcing it, of silencing all opposition to it. If she encountered any French decrees or Orders in Council, she did not oppose them as we do. She found the ocean free for her ships, or she made it so. Had any nation dared to impose tribute on her, or subject her ships to a license, she would not have met them with bills and resolutions. She would not have submitted to such conditions, and she would have shown her resolution, not by words, but by actions. Witness her conduct towards the Dutch during the last century, and the Northern Powers. She was not satisfied with mere reports of committees. To be sure, some reports were made by her, but they were those of cannon. Well, in consequence of her refusing to live upon the mere offals of trade, she obtained the choice bit. Let us beware of the consequences of a contrary conduct in us. I wished this subject postponed, in order that we might adopt some of those maxims ourselves. I wish to make her feel, as well as hear, our resolves. I wish the lightning and thunder to burst upon her together. If they do not accompany each other, they have no power. Besides, I am afraid, if this bill pass before we adopt any vigorous measures, it will be used as an argument against their adoption. It will be said that we have gone upon the system of trade upon any terms, and it would be inconsistent with that idea to adopt warlike measures. In my opinion, those acts that are intended to have a bearing upon foreign nations, as well as those of an internal nature, ought to have some penalty or sanction annexed to them to secure them from violation; and I believe the want of this sanction is one of the causes why all our former acts of this kind have been nugatory. What will be the effect of this act without some such penalty? You have seen it in the past. Great Britain will wait till our House adjourns before she attempts to countervail us, and then seeing we are still playing the old game into her hands, that we can do nothing decisively for several months, that her northern colonies are safe, her West India trade unmolested, and ours unprotected, she will then, under some plea of necessity, issue new orders, under the cover of which she will reap another rich harvest of plunder from our merchants, and all this without the open appearance of war. Gentlemen are willing to urge her into a declaration first, but not to declare it themselves. There is no necessity of our declaring it; we can play her own artillery on her; we can easily carry it on, as she does, under the cover of commercial policy; and if we have not yet had cause enough to adopt such pretenses, I should like to know when we shall. We have only to gild the pill, by calling it an order, a retaliatory measure, a defensive system, and we may rob and steal, and murder and impress, as much as we please, and still it is no war. We could surely authorize our public ships to convoy our merchantmen in their

lawful trade, and to recapture such as were illegally taken; those, for instance, which she seizes for merely having certificates of origin signed by French Consuls, though bound to ports permitted by her orders. We could aid her in carrying into effect some of her own regulations against trading to enemies' ports, by capturing, in turn, such of her ships as we might find violating those regulations. We could, on a small slip of paper, blockade the world, and capture everything that presumed to violate our sovereign will. We could take compassion on her territories, her money in the funds, her debts, and graciously undertake the care of them for her. We could do all this, and more, and still it would be no war. As long as the manner is modern and fashionable, the matter ought to be disregarded. We really talk about commerce as if the whole world was open to use, whereas, there is not a single port in it that we can calculate on with the least certainty. We have conceded so much that we are obliged to ask as a favor what we ought to demand as a right, this, too, from a nation that has it not in her power to prevent our enforcing it, in a single instance, if we would act with proper spirit. Tell it not in Gath, that at the very time Great Britain is driven from the continent of Europe, the whole civilized world leagued against her, and she upon her last prop, the independent States of America should meanly surrender her last rights to her, and yield the ocean without a struggle. The little island of England, in its last agonies, like the combatant in the Olympic games, has but barely time to give us a convulsive squeeze, make us cry out, quarters, and expire. She deserves the crown, though she falls to-morrow. Can we pretend to claim the privileges of neutrals after this? Can we expect France to show us any respect when we have so little for ourselves? I should not be surprised to hear the whole North of Europe, and the South, too, was shut against us. A nation that will surrender its rights to a solitary Power for the mercenary views of a pitiful and sinking trade, deserves to be spurned from the presence of every nation on earth. I really am afraid that the French Emperor will, before long, convene a general Congress, in which the principles of the armed neutrality will be adopted, and we not suffered to participate in them.

The gentleman from North Carolina, (Mr. Macon) has laid great stress upon the first Message of the President, but entirely overlooked the second. In his Message of the 20th of November, after giving us a summary view of our foreign relations, and the refusal of Great Britain to fulfil the agreement of her Minister Plenipotentiary, with becoming delicacy he leaves to us the adoption of such measures as the occasion called for. But the second Message speaks more than the mere language it contains. It clearly shows that the President was not satisfied with the course we were pursuing; for, if he had thought this bill equal to the occasion, why recommend other measures? He waited until he saw we were about to surrender the rights of the country. He saw this ominous bill stalking through the House,

and his delicacy gave way to the impulse of his feelings and his well-grounded apprehensions, or he would have continued aloof upon the original ground of modest reserve. It was then he came forward, and recommended such measures as would alone save our honor and vindicate our rights. And I can truly say, he was the oracle of the popular sentiment; he gave a just direction to the popular will, and spoke the genuine sentiments of an American. If each one of us would act with a similar spirit, the nation's honor might yet be saved, and her rights secured on a broad and solid foundation. But the moment this bill is passed in its present shape, they are bartered away. It is a release to Great Britain of all the stipulations conceded to us in the bill of rights; it is the most absolute and unconditional submission to her sovereign will, and against it I do most solemnly protest. But the gentleman says, we ought to be doing something, our citizens are daily violating the non-intercourse act; the price of our produce is low, and foreign goods exorbitantly high. The gentleman talks as if it was really in our power to will a thing, and it should be done; as if all foreign ports were open to us and waiting to hail our welcome ships. Do you really believe this bill will raise the price of our produce, or diminish that of foreign goods? Is it a magic wand which is to annihilate all orders and decrees, disarm cruisers, dissolve proclamations of blockade, and restore us to the full and free enjoyment of the ocean? And cannot we enforce obedience to our own laws; must we afford to foreign nations the disgraceful sight of being obliged to repeal our laws as fast as we pass them, because we have not honesty enough in the country to obey, nor power enough to enforce obedience? It will be a blasting evidence of the low and humiliating degree to which we are sunk by the corruption of mercantile avarice. What will the nations of Europe think of us when they see our ships skulking about their shores, endeavoring to find out some solitary port into which we can beg admittance? If the miserable remnant of trade, which we can thus obtain, will raise the price of our produce, I am wofully mistaken. It is only in proportion as our foreign market is extended, that our produce will rise in value; not in proportion to the solemn mockery, or the studied phraseology of our commercial acts. And, as our foreign market has contracted in proportion as we have yielded to the unjust pretensions of belligerents, it can only be enlarged by a contrary line of conduct. But we have neglected to use our most ordinary privileges so long, that we are now really afraid to employ them. We are even afraid to convoy our own ships, to let them arm, in their lawful defence, measures that any Government of Europe would look upon as matters of course. There is scarcely telling the time when, or the nation that has not extended this common right to its citizens. Great Britain has done it from time immemorial. Are we afraid of provoking war, by allowing this universal right to our citizens. If it does, I, for one, am willing to meet it. But, inasmuch as this

JANUARY, 1810.

American Navigation Act.

H. of R.

bill, without some amendment of this kind, without some salvo of our honor, or some protestation against the unjust claim of foreign nations, would be pusillanimous submission and acquiescence under those claims, I trust there never will be a majority in this House found to give it their sanction, until such an amendment be received.

Mr. POTTER.—I hope this motion, which is to make this bill permanent, will not prevail, and that we shall adopt the amendment proposed by the gentleman who reported this bill, limiting the duration of the law to the end of the present session. Then, if it pass, it will immediately relieve the country from the operation of the present non-intercourse, and give the present intended restrictive system an opportunity of dying a natural death.

It has really appeared to me, from the commencement of this debate on this bill, that we are legislating entirely for the very arch-merchants and the great capitalists, and that the great agricultural interests are hardly thought of, and that the farmers had hardly a single solitary friend in this House.

Being a farmer myself, and my estate being principally in land, I must claim the indulgence of the House while I state the operation of the whole of the restrictive system on that class of people.

When the embargo was first laid it raised the prices of all foreign produce and merchandise in the hands and possession of the merchants from twenty to fifty per cent., and it reduced the price of the produce of the farmer much in the same proportion; a farmer being obliged to buy of the merchants the necessities of life at their own price. The merchants, owning the floating capital of the country, and having the management of the finances, by stopping new discounts, checking in notes already due, and collecting their own debts, could purchase the produce of the farmer at his own price, and sell his goods in the same way; and by the time the merchant had sold off his merchandise at great profit and had possessed himself of the produce of the farmer, the embargo is then taken off and the merchant given an immediate opportunity to ship the produce thus purchased to very great profit. Then the settlement with Mr. Erskine gave them another opportunity to import foreign produce and merchandise to very great advantage; but no sooner had they done this than the dismissal of Mr. Jackson took place, which gave them another opportunity to put an enormous profit on their last importations, and another opportunity to depress the price of the produce of this country, and to purchase it again very low. And now, as soon as they have got this year's crop ready to ship, the non-intercourse is to be repealed, which will give them another chance to ship the hard earnings of the farmer to very great profit, and again to import more foreign merchandise to sell at their own price; and by the time the merchants can make one voyage under the contemplated law, the English will retaliate, which will again

raise their goods in their hands. The poor friendless farmers, doomed by these laws to slavery and poverty, go to work and raise another crop, and by the time the merchant has bought it again very cheap, the farmers and common people will be so oppressed and distressed by this system, that Congress will be compelled to repeal the embargo law. But the merchant will have again sold his merchandise, and have another opportunity of shipping the hard earnings of the farmer for another year. Thus, sir, you are enabling the rich merchant and great capitalist—who already have too much money for their own benefit or for the good of the public—who are pressing this system because it operates exclusively in their favor, who are very rich already and whose avarice increases with their wealth—to enrich themselves beyond all former examples from a class of people who I presume will not be silent under their sufferings much longer.

This, sir, is the true operation of the system, and many people would say that these merchants, whose business it is to buy cheap and sell dear, are not so much to blame for taking these advantages of the times, as the Government is for giving them an opportunity to do it, and the people for continuing men in power who thus oppress them.

Notwithstanding all your restrictions and prohibitions, all our surplus produce has found its way to a foreign market to great advantage after it has been bought of the growers of it for a very small price, and English goods have found their way into this country without paying anything towards the support of Government, and the merchants' capital in the United States is now as great as ever it was. It has only changed from the correct merchants, who have been against this system, and the farmers, to those of great capital, who, while they have pretended to be in favor of this system, have been trading all the time and have made immense fortunes by it. We all agree that the non-intercourse, that passed this House without a friend or advocate, and has not at this time any gentleman willing to own he had anything to do with it, ought to be repealed. It permits the exportation of our produce to neutral ports and prohibits the importation of British goods. But, sir, they find their way into this country. The duty is a sufficient risk, and if Bonaparte, with his decrees, with his armies, with all his powers and severity, cannot keep British goods out of his dominions, from clothing his army, nor even off his own back, I believe, with such an extent of seacoast and boundary as we have, together with the manners and habits of the people of this country, with such other inducements as they have in point of interest, that it is in vain for us to attempt to keep them out of this country. Why should we suffer all these privations and restrictions? Or why punish ourselves? For, while we are complaining about the decrees and orders of France and England, and while Great Britain is preventing us from trading with France, and France doing all she can to prevent us from trading with England, and they at war with one another and all the

H. of R.

American Navigation Act.

JANUARY, 1810.

world, they are, when it suits their interests, very cordially trading with each other.

It is pretended by some gentlemen that the exclusion of British ships is to be of great advantage to the American ship-owners, because then our ships will have the exclusive right to carry our produce to market; and it has been said by the gentleman from Massachusetts (Mr. CUTTS) that the difference in the freight of an English or American ship of three hundred tons, would be about six thousand dollars in favor of the English, in consequence of the difference of duties. Suppose this is correct. Excluding British ships would not lower the duty on cotton exported in American ships; it would be more likely to raise it. If the statement made by the gentleman be correct, what is the inference to be drawn—that the American ship-owner does not make so much profit, but the planters get a better price? But, sir, the Eastern ship-owners except those who are in favor of this restrictive system, and who monopolize almost our whole trade, and who have found their account in it, say this is not correct, and they do not want this discrimination. It would seem, by the observations of the gentleman, that the farmer had no interest in this business, and that the question was not how much money should be made out of them, but who should make it, the American or English ship-owner. As the planter or farmer does not freight or ship his own produce, if the English ships are admitted, the competition will be the greater and our produce must rise in price. If you exclude British ships there will be no competition, and the price of cotton will be reduced nearly to the amount of duty.

It really appears a mystery to me, and for my life I cannot see into the motives of the Southern gentlemen wishing to confer what they call a great favor on Eastern ship-holders, that they generally protest against, and say they do not want it, when its whole operation is so manifestly against their own interests. It is a kind of magnanimity that I cannot comprehend.

It is time for the Southern planter and Eastern farmer to consider themselves as one great family, and, having one common interest, to look out for themselves. Let us therefore take off these restrictions, and relieve ourselves from the speculation of the large capitalist and merchant, who are in favor of this system, because it operates exclusively to their own advantage. Let us have commerce free. The interest of the farmer and merchant is inseparable when commerce is unrestrained: the merchants are agents for the farmers. If this system was once abolished, the correct merchant, of moderate capital, will again resume his business. There will then be a competition in the market for the produce of this country. The farmer also will receive a valuable consideration for his hard earnings, and be relieved in some measure from his embarrassments, occasioned by the present system.

We are making a law, and Great Britain can control its operation. We are making an instrument for them to set to music at our expense.

Gentlemen say that Great Britain will not pass countervailing orders. It is in vain to think that she will not retaliate in some way or other. If you and I, Mr. Speaker, were neighbors, I should visit you with a very ill grace after I had myself shut my door upon you. There is no better way to judge of this business than to suppose Great Britain should pass such a law to interdict our vessels from her ports, while our ports were open to her vessels. What would be the feelings of every American on such an occasion? I believe there would be but one opinion on the subject; and, for my own part, if one of her vessels should enter our ports under such circumstances, if she could not be got rid of in any other way, I would be one to go on board a gunboat, as much as I detest them, to endeavor to serve her as the French served our floating colonies when they met them pursuing their lawful business on that element of which they are so desirous of establishing the freedom.

What can the object of this bill be? Can it be further to punish ourselves by reducing the people of the United States to greater misery and distress than they have already experienced? Or can it be to produce retaliation, on the part of Great Britain, so that we shall have a complete embargo and non-intercourse operating almost exclusively upon ourselves?—for Great Britain will supply herself by the repeal of the non-intercourse, in a short time, with everything she may want from this country for many years to come. Or can it be the object of our Government, by this law, to bring on a very unpleasant state of things between Great Britain and this country that will lead to war, or that they may have this miserable weapon in their own hands, to dispose of in a future negotiation; that the people may be told, that notwithstanding all their sufferings under the whole of this restrictive system for three years past, it has been the means of bringing about a settlement? I hope not. The embargo and non-intercourse were put into their hands for that purpose, and have been offered to be relinquished, if the British orders should be rescinded. But they have answered no other purpose than to give the rich an opportunity to speculate on the poor; and this will answer as little purpose abroad, and much the same at home.

Much has been said respecting the British Orders in Council operating against us; but if they were rescinded, by agreement with this country, we could not send a single vessel to any port that we could not if our restrictions were repealed. The very consent of the English would be a sufficient cause of sequestration, at least with the French. I may have been wrong in saying that we would not carry our property to France; but, sir, for many years past, I never have heard of the return of any that has been carried there. It is like death and the grave, from whence there is no return. This has been the case with all our property that has been carried to France for many years, and I presume it would be the same with any more that we may hereafter send there.

I entreat gentlemen to take things as they are.

JANUARY, 1810.

American Navigation Act.

H. OF R.

and not as they ought to be; and let us do the best we can in the situation we are in. Let us not punish ourselves because we have been injured by France and England, who have been governed in their conduct towards us by their own ambition and interest, and not by a sense of justice. Let us therefore reject this motion tending to make this law permanent, and adopt the amendment made by the gentleman from North Carolina, (Mr. MACON,) by which means we shall get rid of our present embarrassments, and, at the end of this session, of the whole of this system. With that view, I shall vote against the amendment under consideration.

I have represented the oppressions of the whole of this system on my constituents, not that I suppose it would influence this decision, but because I consider it my indispensable duty so to do, that the interest of the farmer might be brought into view before this House, in hopes that the time is not far distant when the merits and sufferings of that class of people will be a little more attended to than they have been for many years past.

Mr. LIVERMORE opposed the principle of the bill, and Mr. MACON supported it.

Mr. KEY was proceeding to debate the principle of the bill, when—

Mr. SHEFFEY, after protesting against the practice prevailing in the House of debating the principle of a bill, on a motion to amend, and expressing his regret at being impelled by his duty to attempt to put a stop to it, required the decision of the Speaker, on the question whether, on a motion to amend a particular section, it was in order to debate the general provisions of the bill. Mr. S. reduced his particular objection to Mr. KEY's argument to writing as follows:

"That he thought the gentleman from Maryland out of order, because he says his object is to show that there are features in the bill which ought not to be adopted, and consequently that the bill ought not to be unlimited, and, therefore, the amendment ought not to prevail."

The SPEAKER decided that Mr. KEY was not in order.

Mr. KEY appealed from this decision, which was confirmed by the House, without debate—years 68, says 46.

Mr. PITKIN spoke against the motion.

The question on Mr. RHEA's motion, to strike out the clause of limitation, was decided in the negative—years 26, says 102, as follows:

YEAS—Lemuel J. Alston, Willis Alston, jun., David Bard, Joseph Calhoun, Matthew Clay, Howell Cobb, William Crawford, John Dawson, Joseph Desha, John W. Eppes, Barent Gardnier, David S. Garland, Edwin Gray, Benjamin Howard, Mathew Lyon, Alexander McKim, Thomas Moore, Roger Nelson, John Rhea of Tennessee, Samuel Shaw, Daniel Sheffey, John Smilie, Henry Southard, John Taylor, Robert Weakley, and Robert Whitehill.

NAYS—William Anderson, Ezekiel Bacon, Burwell Bassett, Wm. W. Bibb, Daniel Blaisdell, Adam Boyd, James Breckenridge, John Brown, Robert Brown, William A. Burwell, William Butler, John Campbell, John C. Chamberlain, William Chamberlin, Epaphro-

ditus Champion, Martin Chittenden, John Clopton, James Cox, Henry Crist, Richard Cutts, Samuel W. Dana, John Davenport, jun., William Ely, James Emott, William Findley, Jonathan Fisk, Barzillai Gannett, Gideon Gardner, Thomas Gholson, jun., Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, James Holland, Jonathan H. Hubbard, Jacob Hufty, Richard Jackson, jun., Robert Jenkins, Walter Jones, Thomas Kenan, William Kennedy, Philip B. Key, Joseph Lewis, jun., Edward St. Loe Livermore, Robert Le Roy Livingston, Aaron Lyle, Nathaniel Macon, Robert Marion, Vincent Matthews, Archibald McBryde, Samuel McKee, Pleasant M. Miller, William Milnor, John Montgomery, Nicholas R. Moore, Jeremiah Morrow, Jonathan O. Mosely, Gurdon S. Mumford, Thomas Newbold, Thomas Newton, Benjamin Pickman, jun., Timothy Pitkin, jun., John Porter, Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Rea of Pennsylvania, Matthias Richards, John Roane, Erastus Root, John Ross; Ebenezer Sage, Thomas Sammons, Lemuel Sawyer, Ebenezer Seaver, Adam Seybert, Dennis Smelt, George Smith, John Smith, Samuel Smith, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Uri Tracy, Charles Turner, jun., Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, James Willson, Richard Winn, and Robert Witherspoon.

Mr. MACON's motion to limit the bill to the end of the present session, by striking out the word "next," and inserting "present," now recurred.

Mr. FISK and Mr. SOUTHARD opposed, and Mr. MACON and Mr. LIVERMORE supported the motion; which was decided in the negative—years 54, says 71, as follows:

YEAS—Wm. Anderson, Ezekiel Bacon, David Bard, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin Chittenden, John Clopton, Samuel W. Dana, John Davenport, junior, William Ely, James Emott, David S. Garland, Charles Goldsborough, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, Jonathan H. Hubbard, Richard Jackson, jun., William Kennedy, Philip B. Key, Joseph Jewis, jun., Edward St. Loe Livermore, Robert Le Roy Livingston, Nathaniel Macon, Vincent Matthews, Archibald McBryde, William Milnor, Jonathan O. Mosely, Benjamin Pickman, jun., Timothy Pitkin, jun., John Porter, Elisha R. Potter, Josiah Quincy, Erastus Root, John Ross, Adam Seybert, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Laban Wheaton, and Ezekiel Whitman.

NAYS—Lemuel J. Alston, Willis Alston, jr., Burwell Bassett, William W. Bibb, Adam Boyd, John Brown, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, Howell Cobb, James Cox, William Crawford, Henry Crist, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, William Findley, Jonathan Fisk, Barzillai Gannett, Barent Gardnier, Gideon Gardner, Thomas Gholson, jr., Daniel Heister, William Helms, James Holland, Benjamin Howard, Jacob Hufty, Robert Jenkins, Walter Jones, Thomas Kenan, Matthew Lyon, Aaron Lyle,

Robert Marion, Samuel McKee, Alexander McKim, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Roger Nelson, Thomas Newbold, Thomas Newton, Peter B. Porter, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Ebenezer Sage, Thomas Sammons, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, John Smith, Samuel Smith, Henry Southard, Richard Stanford, John Taylor, John Thompson, Uri Tracy, George M. Troup, Charles Turner, jun., Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.

Mr. JOHNSON, after some remarks on the present desultory mode of doing business, laid on the table, for consideration, the following resolution:

“Resolved, That the following be added to the standing rules and orders of the House:

“That Friday, in each week, be set apart for the consideration of reports and bills originating from petitions.”

SATURDAY, January 20.

Mr. EPPES, from the Committee of Ways and Means, presented a bill making appropriations for the support of the Military Establishment of the United States, for the year 1810; which was read twice, and committed to a Committee of the Whole on Wednesday next.

Mr. EPPES, from the same committee, presented a bill making appropriations for the support of the Navy of the United States, for the year 1810; which was read twice, and committed to a Committee of the Whole on Thursday next.

Mr. EPPES, from the same committee, also presented a bill, making appropriations for the support of Government, during the year 1810; which was read twice, and committed to a Committee of the Whole on Tuesday next.

Mr. VAN HORN presented a petition of Rebecca Hodgson, William B. Hodgson and Joseph Hodgson, of the city of Washington, widow and orphan children of Joseph Hodgson, deceased, praying to be compensated for the loss of a house situated in said city, which was consumed by fire whilst in the occupancy of the United States as an office for the War Department.—Referred to the Committee of Claims.

AMERICAN NAVIGATION ACT.

The House resumed the consideration of the bill concerning commercial intercourse with Great Britain and France, and for other purposes.

Mr. LIVERMORE moved the following as an amendment to the bill: *“And be it further enacted, That the operation of the 3d, 4th, 5th, 6th, 7th, and 8th sections be suspended until after the — day of — next.”*

The blank Mr. L. proposed to fill with the first day of January next.

The reasons urged by Mr. LIVERMORE for the motion were, that vessels of Great Britain and France which had sailed into our ports under expectation of being hospitably admitted, would be liable to forfeiture immediately on their arrival in our ports, which would be an act of great in-

justice. For instance, a British vessel might have sailed from some part of the world for a port of the United States, under the arrangement of April, without a knowledge of its having been disavowed; that another section of the bill would do equal injustice to our own citizens by making it penal after the 15th day of April to import British or French produce indirectly—for instance, although such trade is not now legal (admitting the non-intercourse to be in force as to Great Britain, which however Mr. L. denied) yet a vessel might have sailed on a voyage beyond the Cape of Good Hope between the period of the arrangement and that of its disavowal, and might on its return bring a cargo of such interdicted products. The intention being innocent in both these cases, it would be the greatest injustice that the vessels should be subject to forfeiture.

It was said in reply, by Mr. SHEFFEY, that the cases supposed could scarcely happen; that time sufficient had elapsed between the disavowal and the present time to cover all probable cases of foreign vessels arriving; that it was very improbable that a case should occur in which our own citizens could suffer, for it was by no means an usual mode of conveyance to import the manufactures of Great Britain circuitously, through ports beyond the Cape of Good Hope; that the doctrine on which the gentleman grounded his motion was, that it was proper to legislate on exceptions instead of on a general rule; that even if these supposed cases should occur, the same power was by another section vested in the Secretary of the Treasury in relation to this bill, which he now possesses in relation to the non-intercourse law, viz: to remit penalties, when in his opinion innocently incurred. Mr. S. further remarked, that if any amendment were necessary to the bill, it certainly was not such a one as that now under consideration, which went to destroy the principle of the bill by suspending its operation till the first of January, 1811, when by its own limitation it was to expire the 3d of March, 1811.

Mr. LIVERMORE's amendment was negatived, ayes 24.

Mr. MUMFORD observed, that this was a very important bill, which he believed had not been published in any of the papers north of the Susquehanna; and, having been detained from the seat of Government, till within a few days, by a severe dispensation of Divine Providence, he had not himself had time maturely to consider it. I consider it, said he, a momentous question; a subject of great importance, involving some of the best interests of this nation. There are many features of the bill to which I have not much objection. It appears to contain three principles; the first, to exclude foreign armed ships from our waters, has a bearing on the affair of the Chesapeake; an outrage which I can scarcely think of with patience, and which, in my opinion, was tantamount to a declaration of war; and, could I have had my way, I would have driven them from our own waters at every hazard. The second is on the principle of a navigation act, which I should like to see enlarged upon, and made a

JANUARY, 1810.

American Navigation Act.

H. OF R.

permanent system. I should wish to see some further provision in the bill to meet the counter-vailing law which will most likely be passed by Great Britain. As to the eleventh section, which repeals the non-intercourse law altogether, I cannot give my assent to it. I have insurmountable objections, sir. What are we to do? Did we not, in the last winter session, enter our most solemn protest against the decrees of France and Great Britain; and, after serious debates of days and weeks, this House did most solemnly resolve, by one hundred and twenty-one votes to two, that they would not submit to the obnoxious decrees of the belligerents? And wherein does your situation differ now from your position then, but in the aggravation of accumulated insults and wrongs? By repealing the non-intercourse altogether, you submit to those very orders and decrees. I should prefer to have the non-intercourse continued and enforced without further provision in the law. All this talk about not executing our laws is an inadmissible doctrine. I hope never to hear it repeated again. This is a Government of laws; and if a law be once surrendered, under an idea of our not being able to execute it, there will soon be an end of representative government. I care not about the clamor that you cannot execute your laws. Employ all the military and naval force of the nation to execute them. If you do not make your laws respected, your republican form of government will receive such a shock as will shake it to its very centre, and may eventually terminate in a military despotism.

What will be the effect of the dismissal of Mr. Jackson, I cannot say; but, from the best information I can obtain, a war with us appears to have become more popular in Great Britain, and I doubt very much, indeed, whether the Ministry have not contrived to make it a popular project. It is very popular with the navy, and they rule England much in the same way as the military rule France. It is a common saying with them that no other commerce is now to be seen on the ocean but the American stripes; and they with difficulty restrain their inclination to seize it under some frivolous pretext. Sir, if you renew your intercourse direct with Great Britain, what will be the consequence? Will you supply your enemy with the very means of destroying you? Gentlemen say that the non-intercourse was of no effect. What is the fact? Let us examine that argument, the best of all others. The moment the President's proclamation renewing the non-intercourse was known in Great Britain, cotton rose from eleven to twenty-four pence sterling, per pound, more than double the price that it was when the trade was direct; naval stores have considerably more than doubled in price, and other articles in proportion. A British vessel arrived in the port of New York during the interval of a direct trade, with a damaged cargo, which sailed from England before supplies arrived. When the captain was asked how the goods happened to be damaged, his reply was "because he could not, at that time, get sufficient tar and pitch for the necessary repairs of his ves-

sel." And I have been informed it could not be had, at one particular period, under eight or ten guineas per barrel. If the non-intercourse had been properly enforced, it would have had a serious effect on them. The partial operation of this bill will carry the great bulk of our produce to Great Britain only, and you, will injure the fair direct trade to the Continent, which has become very lucrative for our own products. However we may differ in opinion on the indirect trade, yet I do hope the nation will consent to foster, protect, and defend the commerce arising out of the productions of our own soil. If gentlemen do not choose to defend the carriage of sugar and coffee, let the merchants take that risk themselves; but I think it is high time that we should protect the productions of our own country, carried by our own citizens, in our own vessels. If it shall be determined that we will not protect this direct trade, we may as well give up all commerce at once, and adopt some other system. I would suggest this course: that the President of the United States should be authorized to cause the armed vessels to assemble at, and convoy from the ports of the United States, American vessels loaded with the products of our own soil, manned by citizens of our own country. Proof before a magistrate that the whole are *bona fide* the property of citizens of the United States shall be exhibited to the respective collectors of the customs, to examine, and certify to them that the articles loaded on board of such vessels are wholly the produce of our own country; and the collectors shall also be satisfied that it is the property of citizens of the United States, and produce as aforesaid; that an abstract of the proof so exhibited to the collectors, should be delivered by them, under their respective hands and seals, to the commander of the vessel that the President of the United States should designate for that purpose, which commander should be authorized to proceed to such ports and places as have no decrees violating the lawful commerce of the United States. And if, in the prosecution of this trade—authorized, I conceive, by the law of nations—he should meet a ship of war of either belligerent, I should, under my present impressions, be willing that the commander of the convoy should exhibit to either of them, as the case might happen, these documents, proved before your own officers to be the property as aforesaid, stating to them, briefly, that he had the honor to bear a commission from the Chief Magistrate of this country, that the vessels under his convoy were really and *bona fide* the same as described in the proofs set forth by an officer acting under the orders of his Government, and that he was not bound to any port actually invested or blockaded. If, under these circumstances, your direct trade should be molested, the officer should be authorized to resist, and defend his convoy to the last extremity. If, sir, you will not protect and defend such a trade, we ought to surrender our commerce at once, and let the nation know what they have to depend upon. This is the view I have of the subject at present, and I cannot consent to let loose the com-

merce of my country to be exposed to become a prey to the first marauder that chooses to molest it; and, by way of amendment to this bill, I now take the liberty of offering two new sections for the consideration of the House. After the tenth section, add the following:

And be it further enacted, That the President of the United States be, and he is hereby, authorized to cause the armed vessels of the United States to be held in readiness to protect and defend, by convoy, the merchant ships and vessels belonging to the citizens of the United States, and navigated wholly by citizens of the United States, loaded with the articles of the growth, produce, and manufacture of the United States and Territories thereof, contraband of war excepted, bound to such foreign ports or places as have no decrees violating the lawful commerce of the United States.

And be it further enacted, That the citizens of the United States who shall put their ships or vessels under protection or convoy of the armed vessel or vessels of the United States, shall be permitted to arm in their defence; and for the better security of the property of the citizens of the United States, it shall be lawful for the President of the United States, and he is hereby authorized, to require the collectors of the customs in the several ports of the United States to receive from the owners of the ships or vessels and their cargoes, belonging to the citizens of the United States, such proof of the property loaded as aforesaid; and in case the said property loaded on board the said vessel shall be satisfactorily proven to the collector of the port from whence the vessel shall depart, to be of the growth, produce, and manufacture of the United States or Territories thereof, contraband of war excepted, belonging wholly to the citizens of the United States, the said collector shall deliver the proofs of the property so loaded on board of the respective vessels, with a certificate under his hand and seal, that he is satisfied with the proofs exhibited to him; the whole of which he shall deliver to the commander of such ship or vessel as the President of the United States may designate for that purpose.

A motion was then made by Mr. MONTGOMERY to amend the bill, by inserting the following section:

And be it further enacted, That it shall and may be lawful for the President of the United States, and he is hereby authorized, to give instructions to the armed vessels thereof, to seize any vessel or vessels evading or violating this law, and to bring the same into any port of the United States, or the Territories thereof, for adjudication.

Mr. BURWELL moved to recommit the bill for the purpose of a more full discussion of the amendment offered.

Mr. SHEFFEY spoke in favor of the propriety of making the proposition in question the subject of a separate bill. He deprecated the charging this bill with propositions not connected with it, and which would defeat its passage. He was proceeding to show the impropriety of passing the amendment, but was called to order by Mr. KEY, and resumed his seat.

Mr. SMILIE was, like the gentleman who preceded him, opposed to blending peace and war measures, and therefore he said, he was opposed to the recommitment of the bill.

Mr. BURWELL withdrew his motion for recommitment; for he said he was aware of the propriety of making the proposed amendment the subject of a distinct bill.

Mr. MILNOR renewed the motion. His object appeared to be to strike out of the present bill a part which he deemed wholly inconsistent with the proposed amendment.

Mr. PICKMAN supported the motion on the same grounds.

Mr. GARDENIER opposed a recommitment, as he was content to vote for the bill as it now stood.

Mr. MACON was opposed to recommitment, conceiving the proposed amendment to embrace a subject not necessarily connected with the present bill.

Mr. GHOLSON spoke in favor of a commitment of the bill, but wished it to be committed to a select committee for the purpose of new-modelling it, conceiving the bill to be objectionable in its present shape.

Mr. MILNOR varied his motion thus—"that the bill be recommitment to a select committee, with instructions to divide the same by introducing the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and twelfth sections in a separate bill." Mr. MILNOR's object was to have a bill reported to retain only the features of exclusion of armed vessels and repeal of non-intercourse.

Mr. GHOLSON required a division of the motion, so as to take the question simply on recommitment.

Messrs. EPPES and TROUP spoke in favor of recommitment, with a view to procuring a report of a bill characterized by stronger features.

Messrs. DANA and QUINCY were in favor of recommitment, with a view to expunging from the bill those features which they deemed too harsh.

Messrs. MACON, SMILIE, and McKEE, spoke against commitment, because they were satisfied with the bill in its present form, and because amendments, if necessary, could be as well made without commitment.

[In the course of this debate several gentlemen, proceeding to discuss the propriety of the amendment proposed on the motion to recommit, were declared out of order; and in one case, an appeal being made to the House the Speaker's decision was confirmed by a large majority.]

The question on recommitting the bill to a select committee was decided by yeas and nays, 59 to 61, as follows:

YEA—William Anderson, Ezekiel Bacon, David Bard, Jas. Breckenridge, William A. Burwell, John C. Chamberlain, Epaphroditus Champion, Martin Chittenden, Matthew Clay, John Clopton, William Crawford, Henry Crist, Samuel W. Dana, Joseph Desha, William Ely, Jas. Emott, John W. Eppes, Jonathan Fisk, David S. Garland, Thomas Gholson, jr., Thos. R. Gold, William Hale, Nathaniel A. Haven, William Helms, Benjamin Howard, Jacob Hufty, Richard Jackson, junior, Robert Jenkins, Philip B. Key, Jos. Lewis, jr., Robert Le Roy Livingston, Vincent Matthews, William Milnor, Jonathan O. Mosely, Gurdon S. Mumford, Thos. Newbold, Thos. Newton, Timothy Pitkin, jr., John Porter, Peter B. Porter, Josiah Quin-

JANUARY, 1810.

Maritime Precincts—Convoy and Arming

H. OF R.

cy, John Rhea of Tennessee, Erastus Root, John Ross, Thomas Sammons, Lemuel Sawyer, Adam Seybert, James Stephenson, Lewis B. Sturges, Samuel Taggart, Benjamin Tallmadge, John Thompson, Uri Tracy, George M. Troup, Jabez Upham, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and Robert Witherspoon.—59.

NAYS—Willis Alston, jr., Burwell Bassett, Wm. W. Bibb, Daniel Blaisdell, Adam Boyd, John Brown, Robert Brown, William Butler, Joseph Calhoun, Howell Cobb, James Cox, Richard Cutts, John Dawson, Wm. Findley, Barzillai Gannett, Barent Gardenier, Gideon Gardner, Charles Goldsborough, Edwin Gray, Daniel Heister, James Holland, Walter Jones, William Kennedy, Aaron Lyle, Nathaniel Macon, Robert Marion, Archibald McBryde, Samuel McKee, Alexander McKim, John Montgomery, Nicholas R. Moore, Thos. Moore, Jeremiah Morrow, Roger Nelson, Benjamin Pickman, junior, Elisha R. Potter, John Rea of Pennsylvania, Matthias Richards, John Roane, Ebenezer Sage, Ebenezer Seaver, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, John Smith, Samuel Smith, Richard Stanford, John Stanley, William Stedman, Jacob Swoope, John Taylor, Charles Turner, junior, Nicholas Van Dyke, Archibald Van Horn, Robert Weakley, Robert Whitehill, James Wilson, and Richard Winn.—61.

MONDAY, January 22.

On motion of Mr. JOHNSON, the House proceeded to consider the resolution proposed by him on Friday last; and the same being again read, in the following words, to wit:

Resolved, That the following be added to the standing rules and orders of the House:

"That Friday in each week be set apart for the consideration of reports and bills originating from petition."

The question was taken that the House do agree thereto, and resolved in the affirmative—yeas 88, nays 15.

Mr. EMOTT presented a petition of sundry inhabitants of the State of New York, praying that the mode of trial by jury, as established by the laws of the several States, may be established and enforced in the courts of the United States; or, at least, that the same may be established and enforced in the courts of the United States held within the State of New York.—Referred to Mr. EMOTT, Mr. GHOLSON, Mr. MCKEE, Mr. BACON, and Mr. ROSS, with leave to report by bill, or otherwise.

Mr. RHEA, of Tennessee, from the committee appointed on the sixth instant, presented a bill further to provide for the government of the Territory of Louisiana; which was read twice, and committed to a Committee of the Whole on Monday next.

MARITIME PRECINCTS.

On motion of Mr. DANA,

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the propriety of adopting any legislative provisions respecting the extent of the *maritime precincts* of the United States, and the safeguard of navigation within the same; and whether, in ad-

dition to the existing provision against captures within a maritime league from any part of the shores of the United States, it would be proper, by law, to authorize the President of the United States, for the benefit of the commercial interests or revenue thereof, after reasonable notification, to prohibit foreign armed ships or vessels from seizing or molesting any vessels employed in the coasting trade, or merchant vessels bound to or from the United States, whenever the same may be in any of the roadsteads of the United States, or in any other waters within sight of land, and within a line extending from one cape or headland to another, along the coasts of the United States; and that the committee have leave to report by bill, or otherwise.

Resolved, That the Committee of Commerce and Manufactures be instructed to inquire into the propriety of making any supplemental or amendatory provision, by law, for completing a survey in which shall be designated the islands and shoals, with the roadsteads of the United States, and the courses and distances respectively between headlands, together with any other matters proper for an accurate chart of the coasts within twenty leagues from the shores of the United States, as agreed and declared by the definitive Treaty of Peace, in seventeen hundred and eighty-three; and, also, for making examinations and observations with respect to St. George's Bank, and any other bank or shoal, and the soundings and currents beyond the distance aforesaid, to the Gulf Stream; and that the committee have leave to report thereon by bill, or otherwise.

CONVOY AND ARMING.

On motion of Mr. BURWELL, the House proceeded to consider the resolution proposed by him on Friday last; and the same being again read, in the words following, to wit:

Resolved, That the President of the United States be authorized immediately to employ the public armed vessels for the purpose of convoying and protecting the ships and vessels the property of citizens of the United States, laden with goods of their growth, produce, or manufacture, and not contraband of war, in their trade to and from ports open for their reception, by the regulations of the Government under whose jurisdiction they are situated, and not being actually blockaded or invested by a competent force: *Provided*, Such Government shall not have in force edicts or decrees against neutral commerce, and that the owners and crews of merchant vessels owned, laden, or destined, as aforesaid, be permitted to associate and arm for their defence against illegal capture and molestation, under such regulations as shall be prescribed by law.

A motion was made and seconded that the said resolution be referred to the consideration of a select committee.

And the question being taken thereon, it was resolved in the affirmative—yeas 160, nays 18, as follows:

YEAS—Lemuel J. Alston, Willis Alston, junior, Ezekiel Bacon, Burwell Bassett, William W. Bibb, Daniel Blaisdell, James Breckenridge, William A. Burwell, Joseph Calhoun, John C. Chamberlain, William Chamberlin, Epaphroditus Champion, Martin

H. OF R.

Army of the United States.

JANUARY, 1810.

Chittenden, Matthew Clay, John Clopton, Howell Cobb, James Cochran, Henry Crist, Richard Cutts, Samuel W. Dana, John Dawson, Joseph Desha, William Ely, James Emott, William Findley, Jonathan Fisk, Barzillai Gannett, David S. Garland, Thomas Gholson, junior, Thomas R. Gold, Daniel Heister, William Helms, Benjamin Howard, Jonathan H. Hubbard, Jacob Hufty, John G. Jackson, Richard Jackson, jun., Robert Jenkins, Richard M. Johnson, Walter Jones, Philip B. Key, Joseph Lewis, junior, Edward St. Loe Livermore, Robert Le Roy Livingston, Aaron Lyle, Nathaniel Macon, Robert Marion, Vincent Matthews, Archibald McBryde, Samuel McKee, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Jonathan O. Mosely, Roger Nelson, Thomas Newbold, Thos. Newton, John Nicholson, Benjamin Pickman, jr., Timothy Pitkin, jr., John Porter, Peter B. Porter, Elisha R. Potter, Josiah Quincy, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Ebenezer Sage, Thos. Sammons, Lemuel Sawyer, Ebenezer Seaver, Adam Seybert, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smilie, George Smith, Samuel Smith, Henry Southard, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Benjamin Tallmadge, John Taylor, John Thompson, Uri Tracy, Jabez Upham, Nicholas Van Dyke, Archibald Van Horn, Killian K. Van Rensselaer, Robert Weakley, Ezekiel Whitman, Richard Winn, and Robert Witherspoon.

NAYS—Adam Boyd, John Brown, Robert Brown, William Butler, William Crawford, Gideon Gardner, Charles Goldsborough, Edwin Gray, William Hale, Nathaniel A. Haven, James Holland, Gurdon S. Mumford, Richard Stanford, Jacob Swoope, Samuel Taggart, Laban Wheaton, Robert Whitehill, and Jas. Wilson.

Ordered, That Mr. BURWELL, Mr. PICKMAN, Mr. J. C. CHAMBERLAIN, Mr. P. B. PORTER, Mr. RICHARDS, Mr. KENNEDY, and Mr. HOWARD, be the said committee.

STATE OF THE ARMY.

Mr. NEWTON said he rose to submit to the consideration of the House a resolution of some importance. He said he was satisfied, when gentlemen became acquainted with the objects embraced by it, they would readily extend to it their patronage. Gentlemen are aware (said he) of the situation in which this country is placed with respect to the belligerent Powers. It becomes us at this crisis to be extremely circumspect, to render our particular attention to every object connected with our defence. The President of the United States, not long since, by message, has informed us that he conceives it necessary to place at his disposition a detachment of militia, of one hundred thousand men, and also twenty thousand volunteers. In this state of things, it becomes important to make some inquiry into the standing army of the United States. It is necessary for us to know what is the number of the standing troops; the distribution of them in our frontier garrisons, or forts; whether the organization be such as it ought to be; whether any abuses have crept in—and, if they have, to apply the corrective. We are placed here as the people's sentinels, and it is our duty to direct our atten-

tion to objects of this vast importance. Premising thus much, I beg leave to submit the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before this House, by the proper department, a *statement of the number of troops composing the regular army of the United States, the number stationed at each of the frontier garrisons, or forts*, and particularly the condition of that detachment of the regular force allotted for the defence of New Orleans, the number sent there, the different dispositions which have been made of the detachments, and the present effective force of the same, with such other information as he may deem necessary to communicate respecting the state of the army.

Mr. DANA suggested the propriety of qualifying the resolution, as it embraced perhaps too minute an inquiry into the state of the garrisons, and might require information which it might not be proper to communicate; in which case, however, Mr. D. trusted that the President would have firmness enough to withhold such information as he should deem improper to make.

Mr. DAWSON said he could see no possible advantage which could result from the passage of this resolution; that it might, on the contrary do much harm, by exposing the situation of our frontiers. The President of the United States, as Commander-in-Chief, had a right to make such disposition of the Army as he thought proper; and it was a subject which did not properly come within the cognizance of the House.

Mr. NEWTON replied that Congress had the control of the Army, by being annually called upon to vote appropriations for its support; and it was their duty to inquire into the state of it, and to examine whether it was adequate to the public exigency.

Mr. TALLMADGE coincided with the gentleman last up, in the opinion that this was information which the House ought to have; it was their duty to obtain it. He suggested a modification of the resolution. He said it would be desirable to know not only the particular force of the United States, but how it was officered, where the officers were stationed, and in what duty they were employed whilst in the pay of the Government.

On the suggestion of Mr. TALLMADGE, the resolution was varied, by striking out the words in *italic*, and substituting the following: "a return of the Army of the United States, specifying the particular force of each regiment or corps, with the destination of the principal officers commanding the same."

Mr. GHOLSON was opposed to so general an inquiry. He had heard no intimation that the general state of the Army required inquiry; for aught he had heard, its general state was good. If there had been misconduct at New Orleans, he wished to see an inquiry leading directly to that point; he wished, by narrowing the inquiry, to come honestly and fairly at the object in view.

Mr. NEWTON said the House ought to have before it a view of the whole state of the Army, and not to confine their view to any particular limb of it. He thought great advantage would

JANUARY, 1810.

American Navigation Act.

H. OF R.

result from the Army's annually passing in review before the Legislature. He hoped the whole resolution would pass.

The question was taken on the resolution, and decided in the affirmative by a great majority.

Messrs. NEWTON and SHAW were appointed a committee to wait on the President with the resolution.

NAVIGATION OF THE MOBILE.

Mr. POINDEXTER said it would be recollected that a memorial had been received from the inhabitants of the Mississippi Territory complaining of the enormous duty levied by the Spanish Government on vessels navigating the Mobile. It was in the power of the Executive Department alone, at present, to remedy the evil. He wished to know if any steps had been taken on the subject, and therefore moved the following resolution:

Resolved, That the President of the United States be requested to inform this House whether any, and, if any, what steps have been taken by the Executive Department of the Government to obtain for the citizens of the United States residing on the waters of Tombigbee and Alabama rivers, the free navigation of the Mobile river to its confluence with the ocean; and also, what amount of duty is demanded by the Spanish Government at the town of Mobile on articles the growth or manufacture of the United States, which are conveyed through said river to and from the city of New Orleans

Agreed to; and Messrs POINDEXTER and POYDRAS appointed a committee to wait on the President with the resolution.

AMERICAN NAVIGATION ACT.

The House resumed the consideration of the bill concerning commercial intercourse, &c.

The SPEAKER decided, that as the subject of convoying and arming our merchant vessels was specially referred to a select committee of the House, it was out of order to move the same in an amendment to a bill—and therefore Mr. MUMFORD's amendment offered on Saturday last could not be received.

Mr. MONTGOMERY then renewed his motion to add the following as a new section to the bill.

And be it further enacted, That it shall and may be lawful for the President of the United States, and he is hereby authorized, to give instructions to the armed vessels thereof to seize any [*British or French*] vessel or vessels evading or violating this law, and to bring the same into any port of the United States, or the Territories thereof, for adjudication.

Mr. SHEFFEY moved to amend the amendment, by adding to it the following words:

"Provided, That nothing herein contained shall authorize the capture or search of any foreign vessel without the jurisdiction of the United States."

The motion was negatived.

Mr. MONTGOMERY modified his amendment by inserting the words in *italic*.

The amendment moved by Mr. MONTGOMERY was opposed by Messrs. BACON, SHEFFEY, KEY, PITKIN, and DANA, chiefly on the ground that it was asserting a right on the part of the Uni-

ted States which they did not admit in other nations, viz: to capture vessels on the high seas for the violation of a municipal law. It was said that no violation of a municipal law could take place unless the offending vessel was within the jurisdiction of the United States; and the right to capture vessels for intention to evade a law or violate a blockade was one against which we had always protested, and therefore ought not ourselves to assert. It was further said, that the detention of vessels, for the purpose of search at the discretion of an armed vessel, whether of the United States or of foreign nations, would operate to the great distress and sometimes to the ruin of the merchant.

It was said in reply, by Mr. MONTGOMERY, that the amendment only authorized detention or capture in cases of actual violation of the law, and not in cases of a supposed intention so to act; that none of the extreme cases supposed could occur, as the commanders of our armed vessels would in all cases act under express instructions from the President of the United States, who would no doubt guard them so as to avoid improper conclusions; that cases of violation of the laws at present occurred in the mouths of our rivers, to the prevention of which the revenue cutters were not competent, and for which purpose the frigates would be advantageously employed.

The question was then taken on Mr. MONTGOMERY's amendment, and passed in the negative—yeas 47, nays 76, as follows:

YEAS—Lemuel J. Alston, David Bard, Burwell Bassett, William A. Burwell, William Butler, Joseph Calhoun, Matthew Clay, John Clopton, Howell Cobb, William Crawford, Richard Cutts, Jonathan Fisk, Barzillai Gannett, David S. Garland, Thomas Gholson, jr., Daniel Heister, Benjamin Howard, Jacob Hufty, John G. Jackson, Richard M. Johnson, Thomas Kenan, Aaron Lyle, Robert Marion, Alexander McKim, Pleasant M. Miller, John Montgomery, Nicholas R. Moore, Thomas Moore, Gurdon S. Mumford, Roger Nelson, Thomas Newton, John Nicholson, John Rea of Pennsylvania, John Rhea of Tennessee, Matthias Richards, John Roane, Erastus Root, John Ross, Lemuel Sawyer, Ebenezer Seaver, Samuel Shaw, Dennis Smelt, George Smith, Robert Weakley, Robert Whitehill, Richard Winn, and Robert Witherspoon.

NAYS—William Anderson, Ezekiel Bacon, William W. Bibb, Daniel Blaisdell, Adam Boyd, James Breckenridge, John Brown, Robert Brown, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, James Cochran, Henry Crist, Samuel W. Dana, John Davenport, junior, John Dawson, Joseph Desha, William Ely, James Emott, William Findley, Barent Gardnier, Gideon Gardner, Charles Goldsborough, Thomas R. Gold, Edwin Gray, William Hale, Nathaniel A. Haven, William Helms, James Holland, Jonathan H. Hubbard, Richard Jackson, junior, Robert Jenkins, Walter Jones, William Kennedy, Philip B. Key, Joseph Lewis jr., Edward St. Loe Livermore, Robert Le Roy Livingston, Matthew Lyon, Vincent Matthews, Archibald McBryde, Samuel McKee, William Milnor, Jeremiah Morrow, Jonathan O. Mosely, Thomas Newbold, Benjamin Pickman, jr., Timothy Pitkin, jr., John Porter, Elisha R. Potter, Josiah Quincy, Ebenezer Sage, Adam Seybert,

Daniel Sheffey, John Smilie, Henry Southard, Richard Stanford, John Stanley, William Stedman, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Taylor, John Thompson, Uri Tracy, Jabez Upham, Nicholas Van Dyke, Arehibold Van Horn, Killian K. Van Rensselaer, Laban Wheaton, Ezekiel Whitman, and James Wilson.

Mr. MUMFORD said he was opposed to the bill in its present form. He considered the concessions made to one of the belligerents by this bill as abject colonial submission. He never could consent to surrender the honor and best interests of his country in any manner whatever, and he was convinced, in his own mind, that the present contemplated measure would have that effect. There were principles in the bill, he said, which he liked; but there were others to which he had serious objections. He considered the non-intercourse as a solemn protest against the Orders in Council and decrees of the belligerents, and he hoped it would be continued; at least, until we are better prepared, by placing the country in a complete posture of defence, or that some other stronger ground should be taken.

However, he had been baffled in his amendment respecting convoy. By a sort of legerdemain the go-by was given to it. He assured the gentleman from Virginia that the question should not be smothered. He was determined to do all in his power to have the question brought fairly before this House, and decided whether this nation will protect the fair and lawful commerce of the country. He wished not to see it go out wholly unprotected.

I do hope, sir, that the House will consent to postpone this bill until the third Monday in February, and I now make a motion to that effect. What, said he, are we about to do? But a few days ago, this House voted nearly two to one, and your Clerk has scarcely done recording those votes, that you would support the Chief Magistrate in the dignified and praiseworthy course he had taken in dismissing the Minister of Great Britain. He has recommended the calling out one hundred thousand militia, twenty thousand volunteers, and fitting out the frigates, and yet, with all these hostile features staring you in the face, you are about adopting a bill containing principles which in three weeks it may become necessary to retract. I do not like this legislating backwards. This bill operates all on one side; it will supply one of the belligerents with raw materials essential to carry on her manufactures, and with the very naval stores which are most likely to aid her in support of a war on her part against you, and which she cannot now procure from the Baltic. Is it politic, is it wise, when such gigantic events are daily taking place in the Old World—at such an awful period, in the contemplation of which the human mind is lost in wonder and amazement—to press a decision of this important question, on which pivot turns the whole of your foreign relations? I do hope the motion to postpone will prevail, for such is the detestable Machiavelian system of the Old World,

no one can scarcely form any correct opinion of what course they may pursue in consequence of the measures we have taken; but if we reason from their past conduct, by analogy, we have much to apprehend. I may be mistaken, but I should not be much surprised to hear, before the third Monday in February, that one of the belligerents had embargoed your ships in her ports, and ordered all the others on *His Majesty's high seas* to be brought in for legal adjudication. What did they do in the war of 1756? They commenced by seizing, under frivolous prettexts, about four hundred sail of French merchant vessels. In our Revolutionary war, they did the same with Holland. They commenced by capturing all the Dutch vessels they could find, and then talked about treating with their High Mightinesses. And, more recently, this same conduct has been pursued in the case of three Spanish frigates, who were, after the manner of the Chesapeake, fired into, and their subjects murdered without any previous notice or ceremony. And what reason have we, sir, to expect any better treatment. I do not wish to afford them an opportunity to gratify their insatiable appetite by serving us in the same manner, to which we shall be exposed by the passage of this bill.

Mr. TAYLOR said that he presumed, from the arguments urged by the gentleman from New York (Mr. MUMFORD) who had just made the motion to postpone, it would be proper to enter in some degree into the merits of the bill. In fact, in no other way, could we get at the proper answers to his arguments; for, to show that the bill ought to pass, and that speedily, would be to show that it ought not to be postponed.

We are told, sir, that it ought to be postponed, because it is submission; and if, indeed, we were now, for the first time, about to make this descent; if we were now high and dry, and could, by this postponement, continue for a few weeks, or some days, in a state of honorable and effective resistance to the unjust and oppressive edicts of the belligerents, I should think the argument unanswerable. I will not gainsay the definition of the gentleman, (this definition corresponds with the definition of submission, as given in the celebrated report of the Committee of Foreign Relations, made last winter. I subscribed to it then, and I must do so now,) but I will say, that the principles of this bill are less humble, less abject, than those contained in the non-intercourse law, which was founded on the project of the gentleman from New York, and which he wishes now to be continued in force.

The House cannot have forgotten who, on this side of it, first made motions to break down the system of embargo; who first cried out for the merchants for permission to go somewhere; to St. Bartholomews, to Gottenburgh, to any place not inhibited by the belligerents; that the merchants must have commerce; must have it immediately. In vain we replied, wait a little while; let the system have a fair trial; we too desire a fair, an honorable commerce; by waiting a little, this will be secured to you. In vain did the for-

JANUARY, 1810.

American Navigation Act.

H. OF R.

mer Foreign Relations Committee demonstrate that this hide-and-seek commerce—that this commerce, the lines of which, as defined by the proposed resolution, would be following the course of the injurious edicts, and would be, what the gentleman now talks about, submission. All would not do; the embargo was destroyed, and the non-intercourse was passed. Then the supplies which he now wishes to withhold from the British Navy got out of our country, and into Great Britain. The fears now expressed on this head come too late. These might, at that time, if they had been urged by the gentleman from New York, have had great weight. Then we condemned our immense mercantile tonnage to the humble condition of coasters, or to the more humble condition of *skulkers* into the little holes and corners in Europe left open by the lenity or oversight of the belligerents. I will not speak of the other effect of the non-intercourse law; of its inducing, by its restrictions, a part of your merchantmen to run away, to expatriate themselves, and to become a reproach and infamy among nations.

But, to speak in the mildest terms of its effects, and the effects of the abortive efforts of our Executive to get rid of as much of it as he could honorably, and in obedience to its provisions, I will say that at our meeting here in November we found more than an hundred millions of our property afloat on the ocean. True it is, sir, that for the measures that led to this state of things, I individually bear none of the weight on my shoulders; but now, as I am compelled, and all are compelled to act under this state of things, we must take things as we find them; and as respects the welfare of the nation now to be sought, it is no matter who voted this way, that way, or the other. There now rests upon us all, upon every branch of the Government, a high, a paramount responsibility, increased, immensely increased by the state of risk in which we find so much of the property of our country.

From the gentlemen who talk about energy, and rail against this bill, I have heard of no proposition for lessening this risk; on the contrary, the high tone they adopt would tend to increase it. Actuated by the view I have taken of our situation, the first proposition I (as a member of the committee who reported this bill) made to the Committee was, to lay on an embargo for six weeks, in order to enable the Government, when our property was drawn home, to take what course it pleased. It was hardly entertained there; in fact, only the politeness of the person who seconded my motion, enabled me to introduce it there. I believe I do not hazard a contradiction when I say that it would be rejected by a large majority of this House, and, whether satisfied or not, I have acquiesced in this sentiment myself; perhaps, from the terms of the President's first Message in the present session, and from the known determination of our citizens to have commerce at all events, and under any circumstances, I might have been too fast.

To be sure, when I saw the account of Mr. Jackson's dismissal, I hardly expected a *peace Mes-*

sage from the President at our meeting. Nay, sir, in viewing the insult as coming from the British Ministry, or British King, if you please, I was disposed at first sight to object to our Administration's placing to the credit, or rather discredit of the Minister, "the act of his Government," &c. From all the consideration I have been able to give this subject, I still believe that, in point of fact, the thing is as I first conceived it to be; and that, only in form, as in the attack on the Chesapeake, it was the act of the individual, and, as in that case, there might be room left for the British Government to disavow it. In truth, sir, if we suppose the opinions of the moral part of the world—the moral part of their own citizens—of any importance to Great Britain, the ground of collision between our Government and their late Minister, if they could possibly maintain it, would be the only excuse or palliation to their disavowal of the arrangement made by that Minister. But, when this ground was attempted to be assumed, and when the insulting allegation was made by Jackson, what was the President bound to do? Certainly, not to permit this ground, utterly false and unfounded, so dishonorable to himself and to the nation, to be assumed and maintained in the harshest terms by the Minister. Say he was at liberty to consider the insult as coming from the Minister or the Government, on which ought he to have imposed the demerit? He might have reflected, and no doubt did, that we were unprepared for war; that almost the whole commercial capital of the nation was in a state of exposure to the captures of the British cruisers; and, on perusing the correspondence between the Secretary of State and that Minister, he could nowhere find that that Minister had vouched his Government as responsible for his insolence, or that the insult had proceeded from instructions from his Government. How could the affair eventuate other than it did? The offence was placed to the individual, he was dismissed, and the annunciation directed to be made of that event by our Minister at London was correspondent. It expressed a just sense of displeasure at the conduct of the individual, but a pacific disposition towards the Government.

The position then, sir, which I assume from the foregoing reasons, is, that the pacific attitude discoverable in the President's Message grew out of the state of our own affairs as produced by our own laws, and also out of the very circumstances of the affair of Jackson; superadded to which, I might also mention the continuance of the old dilemma; the equal infringement upon our neutral rights by the two great belligerents; if not equal in fact, equal in their disposition to injure us. I might add, too, that in making war upon one of these, you would be submitting to the views of the other—views upon which they had originally oppressed you. If it was improper a year ago under this consideration to single out your adversary, and at a time when your commerce was all within your own ports, much more so would it be now. Thus situated, what are we to do? The non-intercourse law, a dead letter as to

H. OF R.

American Navigation Act.

JANUARY, 1810.

all its designed effects, except one effect—the closing of your Treasury box to the admission of one cent of duties from British and French goods—the system of smuggling maturing every day; can gentlemen be willing that we should remain in this state?

After all that has been said, I think the bill on your table contains more of relief, more of safety, and less of degradation, than any plan that has been spoken of by its opponents. I will not say that it is the best that can be produced; but, provided you will not call in your commerce, which even the men of energy have inveighed against, I will say it is the only practicable plan of getting on till something better can be done, and is a plan carrying with it a protest against the injustice of the belligerents. It is not a new plan. I wish it had been adopted when first offered to you. A colleague of mine (Mr. D. R. WILLIAMS, not now a member of this House, and whose absence all of us must regret) offered it when we were discussing the non-intercourse law. It then failed, as did also another project connected with it, to wit: the laying double duties on goods brought from the belligerents.

It was then proposed to take off all commercial restriction on our own citizens who had suffered so much by the injustice of foreigners—by the system of coercion adopted to procure relief from that injustice, and which, by our repealing it, we had rendered abortive—and to substitute in their stead restrictions on the commerce with us, of the subjects or citizens of those nations which had done us the injustice; thereby securing to the class of citizens who had been the most injured the monopoly of the carriage of our own produce, and of the supplies from these nations to us. If this state of things can be effected, even one of the opposers to this bill (the gentleman from New Hampshire, Mr. HAVEN) has acknowledged it would be a state most devoutly to be wished for. Though an advocate for the bill, I perhaps do not estimate it so highly as that gentleman does. I wish for better times; I wish for peace; I would ask for no more.

By the by, I must say a word concerning the plan for double duties, which passed in this House, but which was lost in the Senate; and by its failure there, we shall be obliged to borrow three millions of dollars for the year 1810. It was no doubt a very convenient thing for the forehanded capitalist and British agent who had sent orders, extended on account of the expected non-intercourse, to escape the payment of this double duty; and it will be equally convenient for them, now that they have received their goods, that the non-intercourse law should be continued till they have made sale of them at a price increased by its continuance. It is to defeat this kind of monopoly that I wish the bill to be speedily passed. It is to prevent what the gentleman from Rhode Island (Mr. POTTER) the other day talked about—the making the rich more rich, and the poor more poor, out of the misfortunes of our country—that I wish the bill not to be postponed. We ought not, say gentlemen, to pass this milk-and-water

thing, after we have voted in favor of the resolution in which we have expressed a determination to call forth the whole energies of the nation, if necessary, in support of our Government against all consequences that may result from the dismissal of Mr. Jackson. It was not pretended by the friends of that resolution that it was designed to put an end to all negotiation: on the contrary, they defended it as being free from this tendency, when its opponents had urged that argument against it. But, what are we to do, in the meanwhile, until the time it shall become apparent that it is necessary to call out the whole force of the nation? Do the war speeches of gentlemen, when they say that they do not mean war, prepare us for that occurrence? Every little helps, is the old saying, which I would here apply to this subject. Pass this bill, by which you would resume the good work of replenishing your Treasury, and thereby prepare the ways and means of resistance which by the resolution you have promised. The gentleman from Massachusetts, (Mr. PICKMAN,) in his discussion on the details of the bill, has said much of the advantages lately derived from an indirect trade with France, of the wine and silks obtained at Tonningen. In reply to all this, I ask, would not the trade direct to France, if it could be carried on with safety by our merchants, be still more profitable? But, the British Orders in Council affect this trade. Is this the only obstruction? Would not French sequestrations also affect it? Those who have opposed this bill have demonstrated that it will be a coercive system upon France. I was glad to hear it. What do we want France to do? To withdraw her edicts—to respect the rights of property of our citizens in her ports—to respect our neutral rights as a nation. Are we furthering the pursuit of these objects by conforming to these edicts—by skulking into a Danish port, there to deposit what she may want of us, and to take her eleemosynary scraps which she sends there for our humble acceptance; and when, too, this circuitry of voyage is performed at almost as great risk of captures, by one nation and another, as would be run in the voyage direct to France? If there was safety after arriving in port in France, I have little doubt but that the enterprise of our merchants (and perhaps their cunning) would find the way there, *maigre* all the blockading decrees and British navy.

It is the submission prescribed by your non-intercourse law that has degraded us as a commercial nation into the condition of that lowest caste of Hindoos, who, in receiving the charity of the higher castes, stand at an humble distance till the donor has deposited his bounty, and has withdrawn to a distance sufficient to escape the pollution which the touch or even the sight of the object being is supposed to occasion. I wish for no trade upon these terms. When I know my surplus of produce is wanted by my neighbor, and I want a part of what he has to spare, I choose to meet him face to face. I despise your sneaking bargains. When there is humiliation and degradation imposed by one party without previous

JANUARY, 1810.

American Navigation Act.

H. OF R.

provocation on the part of the other in their intercourse, the freeman, the American (such as he ought to be) is bound, if he cannot retaliate, to reject with disdain the intercourse thus offered; nay, I would not offer the unequal terms of intercourse contained in this bill to any nation in Europe, unless it were expressly in retaliation for previous known and acknowledged injuries imposed by that nation on us. I have said that this bill is less submissive than the non-intercourse law: with respect to France, I hope I have proved my position. Let us see if it will hold good with England, also. From the gentleman from Pennsylvania (Mr. MILNOR) I derive this information, which, though not new, yet, as coming from him, is entitled to additional weight, viz: that the blockading orders; Orders in Council; disavowals of arrangements fairly made; the whole catalogue of impressments, attacks, insults, &c., of the British Government—have proceeded from the jealousy of our growing commercial importance, and from a desire to secure to themselves the monopoly of the carrying trade, and of the commerce of the world. In the law now proposed to be repealed, is there anything countervailing this object? Why need I repeat the arguments against this plan, urged last year, all of which have proved true by actual experience. Our merchantmen have been turned into coasters to deposit at Amelia island, or at some near neutral port in the West Indies, all the supplies of naval stores, and of raw materials for her manufactures, which Great Britain may want; nay, the outlet is so circumscribed by her orders, and by her own law, that she obtains more than she wants for her own use. With but a bare possibility of escaping her rapacious jaws, which we are told yawn wide for our destruction, we have aided and assisted her monopolizing spirit, both as to obtaining the whole quantity of the surplus produce of our country, and that too at reduced prices—at not half its worth; and, as if this were not bad enough, we insure to her the profit of carrying it across the Atlantic! Will the complete reversal of this latter effect—the asserting our right to the exclusive carrying where we please of the surplus products of our soil—be more submissive than the former policy? No one can say so. It is true, say gentlemen, we want this carrying trade to the fullest extent, as detailed in the bill, but we cannot get it; it is dangerous to attempt it. Great Britain is all-powerful; she will retaliate; she will drive your vessels from her ports, or she will impose such heavy duties as to create the effect of another embargo and another non-intercourse. As to her exclusion of our vessels from her ports, or her being willing again to revive the effects of the embargo, the little experience she has already had of it, will occasion her to deprecate it as the worst of evils to her. Three, four, and five hundred per cent. rise in the price of naval stores; three hundred per cent. on cotton—the kind of *benevolent aid* her Government had to give to the poor weavers of Manchester!—are mementoes sufficient to prevent Great Britain from producing, by her own act, such a state of things. But, she will impose counter-

vailing restrictions, in form of *duties*. Let it be recollected that her system of impost and excise—her system of taxation—has extended to everything that the ingenuity of her greatest statesmen and calculators could think; that her necessity has occasioned her to collect in one year, the enormous sum of nearly eighty millions sterling, exclusive of loans. Let it be recollected, that she cannot have loved us better than she loved her own subjects. I think that it is fairly inferable, that if she has not squeezed us to the utmost, in the way of excessive duties, there must have been an all-powerful reason for it—some settled policy. Can any one be at a loss for this policy, when the famous Order in Council is recollected, which consigned to the flames the surplus cotton brought into her ports, in order to prevent its finding its way to other nations, who might rival her in the manufacture of it. Her discriminating duties, her orders, and all her other short-sighted measures in hostility to us, have aroused a spirit for manufacture among our citizens. Great Britain has held out the bounty; let her increase it at her peril. Every restriction—every countervailing measure offered by her—will give impetus to the manufacturers in this country. I confess I feel no sensibility under these apprehensions, which appear to alarm some gentlemen so much: I should grieve very little if she did retaliate.

But we are cautioned not to enter into this commercial warfare with her—she is so powerful and mighty, and is fighting for her existence; (there is some indication of weakness in this, though;) she will never give up to you; her high-towering notions—her national pride—will compel her, whether for her interest or not, to retaliate. But, I would answer, if she does retaliate, against her own interest, the victory in the long run will be ours. The more they injure our fair trade, to them and from them, the more victorious shall we be; the more they plunder us on the ocean, the more shall we prize our homes, our own soil, our domestic arts, our manufactures—the more we shall become united, and weaned, and independent of her.

But, the question is not whether we shall now commence this commercial warfare, but whether we are so submissive and so abject as to be afraid to retaliate on this “all-powerful nation.” If her power is to be the conclusive argument against it, it would apply as well (nay, with greater force) against our resisting her with the sword, if she were to attempt to subjugate us in the old mode—in the mode she once attempted, but attempted in vain.

On this point I will only add further, that in addition to the discriminating duties so *clearly* detailed to you by the gentleman from Massachusetts (Mr. CUTTS,) and their tendencies so irrefutably deduced, Great Britain has even given us cause of war, as some gentlemen on the other side of the House have lately admitted. Can “this milk-and-water project,” (as some of its opponents call it,) adopted as retaliatory, and in *protestation* (which I believe is a better word) against all her unjust conduct towards us, and which is indeed

so far short of the retaliation commensurate to the injury—I say, can this bill, if passed, be supposed capable of producing the dire consequences which are so often detailed to us? I believe it will make less noise over the water (and that I acknowledge is its *weakness*) than it does here among ourselves.

The gentleman from Pennsylvania, (Mr. Ross,) in opposing this bill, and in urging us to make an energetic stand, in fact I should call his speech a war speech,) branched out into a violent philippic against the embargo. Did he recollect that this contest, which he was inspiring us up to undertake, was with a maritime Power? I need not magnify her power—that has been done by others. Did he recollect, what I have before adverted to, that more than one hundred millions of our property was afloat, and liable, at the shortest notice, to be swept from our possession? Did he reflect that the bankruptcies which would be occasioned by such a stroke, would not only affect the mercantile interest, but also the agricultural? for they are so intimately linked together, that the distress to the one class would be a distress to the other. Did he reflect that this loss of capital, lessening the aggregate wealth of the nation, would also be lessening by so much the resources of the nation for defence, and would be adding to the resources of our enemies for our annoyance? Did he reflect, that at the commencement of a war with a maritime nation, this same embargo would be necessary as an incipient step to be taken by any Administration, whether of one political denomination or the other? Why, then, attempt to revive the prejudices which have been created, more by feeling than by sound judgment, in a part of our political community? I shall believe he has pondered well the subject, and is seriously in earnest for war, when as a precursor to it, he shall offer to this House a resolution for laying on an embargo. On the whole, sir, the state of the world—our own particular state—the pacific stand our Administration has taken—all conspire to convince me that the bill on your table, less “submissive than the non-intercourse law,” ought to pass; and that, if even we mean to take the step in advance, inasmuch as it proposes replenishing of your Treasury, it ought to pass.

Mr. Ross said he was opposed to the passage of the bill before the House, because it was not suited to the present state of the foreign relations of the United States. In order to form a just idea of the bill (said he) we must require what can be done. We are reduced to this situation, that one of three courses must be adopted by this House. We must either abandon commerce and the ocean altogether; or suffer England to regulate commerce for us; or we must protect commerce by force. These are the only three courses left for this nation to pursue at the present crisis.

Is the nation prepared to abandon commerce altogether? Are the representatives of the people prepared for it? If their declarations convey their ideas, we are not prepared for such a state of things. It has been declared from all sides of this House that we would not submit to the prin-

ciples contained in the British Orders in Council. To abandon the ocean to yield up commerce, is submission to the British Orders in Council; and therefore, I presume, we are not prepared to take this course. Are gentlemen prepared to set the wealth of the nation afloat and to suffer England to regulate that small remnant of commerce which is left to us? If they are, they will vote for the bill under consideration. England at this moment tyrannizes over the sea, and has as absolute control over the commercial world as Napoleon has over the European continent. She owes much of that power, in my opinion, to the feeble and inefficient measures pursued by the United States for years past. Whatever you may say upon paper, unless it contain some practical provisions of protection, she will continue to regulate your commerce, to give it such direction as she may think proper, and to enforce her Orders in Council. I have understood that gentlemen say that they never will submit to the principles of the Orders in Council; and therefore they cannot adopt this course of suffering England to regulate all our commerce. Then what is the course left for the United States to pursue? That of protecting their independence, protecting their commerce, sustaining their neutral rights by force. This is the only honorable course left for the American people and Government to pursue, and being the only honorable course, all our measures are predicated on false principles, and will only tend to reduce us still lower in the estimation of foreign Powers than we are already. I am aware that it is a maxim as old as the Roman Government, or older, that *in medio tutissimus ibis*, that the middle course is best. That maxim has been resorted to by us for years past. It has produced no good, has been found by experience to be inefficient in the present unexampled state of the world, and therefore I think it would be wisdom to abandon it. Is not the bill on the table still pursuing the middle course? Does it not contain the same principles which have been resorted to in different ways for years past? If it does, and gentlemen are satisfied that all those principles hitherto attempted to be enforced have been unavailing, why will they cling to such principles as the ark of our political salvation.

The principles of non-importation, embargo, and non-intercourse, have all been resorted to, and all have been found ineffectual. I am therefore opposed to this bill; because I consider it the fourth edition of the embargo principle, which has been found to be an ineffectual remedy for the evils under which we are suffering. I am aware that I may be asked if the embargo principle is to be found in the bill under consideration; and it behoves me, as this is one of my objections to the bill, to point them out to this House. What are the embargo principles, sir? Principles restrictive of commerce, undertaking to regulate and restrict commerce completely or partially. This bill undertakes not only to restrict the commerce of the United States, but the commerce of the great belligerents also, to limit its operation, to

JANUARY, 1810.

American Navigation Act.

H. OF R.

narrow down the extent which it would have without any law in operation on that subject. So far, therefore, it partakes of the embargo principles, and so far it is exceptionable in my view of the subject; inasmuch as the embargo principles have been found to be inefficient, inasmuch as the very friends of those principles have declared that they have been found inoperative, or to operate only on our own citizens and not on our enemies. It is a good rule, sir, that Government and protection are reciprocal. By what authority do you undertake, upon what moral or political principle do you assume the right to regulate and restrict commerce, when you refuse to afford it any protection? If the Government should refuse to protect its citizens, the ties and the obligations which the citizen would owe to that Government would be dissolved, and he would cease to owe allegiance thereto. By a parity of reasoning, if the Government refuses to protect the citizen in his lawful commerce, it loses the ties of allegiance which he owes to that Government. Thus much, sir, as respects this measure being an inefficient one, not corresponding with the situation of our foreign relations, being too weak and too feeble to meet the exigencies of affairs; being in fact, what gentlemen have declared on all sides of the House they will not submit to, a submission to the British Orders in Council.

But, sir, I am told that this bill is only an entering wedge, the first stepping-stone, a system to be adopted calculated to effect all those purposes for which I am so anxious; and that the reason why the whole system is not produced at once is, that different committees, having various duties to perform, have charge of the different branches of that system. This answer is not satisfactory to my mind. I should have been pleased to have seen each of these committees exhibiting to this House a complete system; by which means the House would had a complete plan from each of these able organs, from which to make choice of that which appeared to them best, and would not have been compelled, as they are now, to judge of its disjointed parts without seeing the whole. Are embargo principles, partially restricting the commerce of the country, necessarily a part of a greater system calculated to protect our rights? It is surprising to me that those principles should have been incorporated into this bill which have been apparently abandoned. But, sir, we are all men, and nothing more. The chairman of the Committee of Foreign Relations, (Mr. MACON,) whose policy is completely embargo, considering it, no doubt, the best for our country, mingles it with all his measures in all his speeches. It is not surprising, therefore, that he should mingle it in a great system said to be calculated to protect our rights and prevent our submission to the British Orders in Council.

We have also been told, sir, in the course of this debate, that there are three parties in the House—one for strong energetic measures—and that is my ground; another more cautious, wise and prudent, disposed to adopt temporary measures and wait for some miracle to relieve them

from embarrassments. This portion of the House, we are told, may probably follow those who are for energetic measures, whilst those who are for doing nothing will never follow us; and we are therefore called upon to unite with those who will in a certain event join in with us. This, sir, forcibly reminds me of the fable of the fox and the goat. The fox having tumbled into a well, had been casting about a long while to no purpose how he should get out again; the goat came along, peeped in and saw the fox, and asked him if the water was good? Good! says the fox, ay, so sweet, that I am afraid I have surfeited myself, I have drank so abundantly. The goat upon this, without any more ado, leapt into the well; the fox mounted on the goat's shoulder, leapt out, and ran away laughing at the snare into which he had led the goat. Sir, with this premonition before my eyes, I should be a greater dupe than the goat to leap into the embargo system. It has injured my country, surfeited my friend, (Mr. SMILIE,) and therefore cannot be good for me. I must therefore decline his invitation to join him in continuing measures productive of no good, but much evil.

I am for manly resistance, and for declaring, in our laws, as well as in our speeches, that the embargo ground is no longer tenable. These reasons, I hope, will satisfy those who think I ought to sacrifice my opinions to that of a majority of any party, that I am correct to do so in this instance. Here I stand or here I fall on principles practically proved for ages past as the only ones calculated to meet a great crisis in our affairs, involving invasions of our rights and a total disregard of all the principles of justice or morality. It is a practical system—no fine-spun theory. It is a system known to be good, by experience, to meet diseases of this kind. Ages have approved it, wisdom has ratified it, and it is therefore that plan on which I should choose to risk my reputation, however small.

What is this bill, sir? What good is intended to be produced by it? They who brought it in appear to have very little faith in it, when they were willing to limit it to this session. Is your country in that tranquil situation, or your foreign relations of so conciliatory a nature, that the Legislature can be indulging themselves in enacting temporary provisions, in which no five men agree as to the effects they will have or the manner in which they will operate? It is true, sir, that the gentleman who sits before me, (Mr. CUTTS,) who is fully equal to giving information, has endeavored to show the House its operation. As far as I understood his reasoning it went to prove, not that this bill would produce any general beneficial effect, but, that it would by repealing the non-intercourse law, permit lumber to be exported, which is the staple of his State, and too bulky to be smuggled out of the country, as the productions of other States are daily done under that law. This only proves the non-intercourse law should be repealed. Let that be done without a retention of its principles. If not, let it remain until the people in the commercial States

shall compel their Representatives to adopt some practical remedy for the injuries they have received, and the evils they endure.

Really, sir, this bill appears to me to be a sort of sop given to Cerberus, not to lull him to sleep, but to stimulate his vigilance; not to induce him to unbar the gates of commerce, but to invite still further rapacity; not to promote the good of the country, but to amuse the people a little longer.

Perhaps this bill might be useful were moral obligations felt and acknowledged by the great belligerents. But is that the case? If not, you ought to adopt measures calculated to meet the actual state of things. Indeed, sir, when I reflect on our situation, and hear gentlemen gravely advocate this bill, as calculated to protect our commerce and prevent the injustice and restrain the violence of the belligerents, it reminds me of the anecdote of the Bedlamite, who talked rationally on all subjects except politics, but the moment that subject attracted his attention, that moment he exclaimed: "I and the Czar Peter hold the balance of Europe." We seem to talk rationally on every subject but commerce; the moment that is touched we seem to forget that power and force are necessary to give efficacy to our laws: we seem to forget our commerce is as completely controlled by Great Britain as the Bedlamite was by the walls which surrounded him. The Czar may, for aught I know, eventually protect the rights of neutral nations, but we shall assist him, while we adhere to the principles contained in this bill, like the maniac did his predecessor—only in imagination.

On this point I have another authority. I confess that the authority which I shall quote has never been recognised by the great Plenipotentiaries who met at the Treaty of Westphalia, but it is of much older date, and has been sanctioned by all mankind. I mean *Æsop's fables*. He tells that he met in the street a man who had been bitten by a dog, and had in his hand a crust of bread dipped in the blood of the wound. "What are you going to do with it?" asked *Æsop*. "I am instructed," replied the sufferer, "to give it to the dog who bit me, and it will insure a cure." *Æsop* said, "take care none of the other dogs see you give it, or you will be bit by them all." Yes, sir, and this bill appears to me to be a crust of bread dipped in the wounds of this country, given to Great Britain; and I advise this House to beware that none of the other nations of Europe see you hand the crust, lest they bite you also. This tale is to be found in a book of as much wisdom if not as high a character as the writings of the famous Grotius, who was recognised (as a learned gentleman has told us) as good authority at the Treaty of Westphalia. Let us therefore profit by its instructions.

But, what is to be done, gentlemen ask. Why, sir, assume the tone of manly resistance. Forget not that you are descended of fathers who dared to assert their rights. Look back to '75 and '76. The nation was then an infant Hercules resting in his cradle; we are now grown to manhood. And if the infant Hercules in his cradle did not

fear to oppose the domineering conduct of Great Britain, why should Hercules, grown to manhood, dread her power? We are told that we have now no resources, that the Treasury is impoverished, and therefore that the course which is the only one steering clear of submission cannot be resorted to. In what, sir, do the resources of this country consist? The resources of our country consist in the wealth and affluence of our citizens; and if they are wealthy and affluent, our Treasury is always full. You possess the power to call a portion of it into the Treasury whenever the emergency of affairs requires it, and the people will freely resign a portion of it to protect their rights when in danger. Who pretends to say that the people of this country are not affluent? We have it officially before us, that money to almost any amount can be procured by loans; and though I am not one of those who approve of loans as a system, yet it must, in time of need, be resorted to—nay we must resort to it this very session. And to whom on this occasion must you resort? To the merchant, whose rights you refuse to protect, and whose rights have been violated. What has reduced us to this situation? Crippling our commerce, instead of protecting it. Indeed, if I understood the gentleman from New York, who was on the committee who reported the bill, in the different speeches which he has made on the subject, the bill under consideration does not beat in unison with his pulse. If it does not, and the principle on which it is predicated be radically wrong, I ask why he does not come forward and openly avow it? Let those who believe the principle of the bill to be good rally around it, and those who doubt take their own course, and vote against the bill, rather than for a doubtful expedient.

Why should we go to extremities, is asked. Sir, war ought to be avoided so long as it can with honor, so long as it can with any beneficial result. But are you not now at war, sir? Has not Great Britain invaded your rights? Has she not trampled on your independence? Has she not committed all the depredations she can? No gentleman can deny it, or that she will not now permit just what commerce suits her purposes, and no other. Are the people ripe for such a degradation? Is this House ready for it? If not, she has trampled on all your rights, and the question results—would it be more beneficial to abandon commerce altogether, and submit to the British Order in Council, or to make a manly resistance and assertion of our rights. When gentlemen examine this subject to the bottom, it would seem to me that they would not hesitate for a moment to say that the only honorable and dignified course is a manly resistance.

What has Great Britain done to induce us to take this firm stand? She has destroyed all our commercial rights; we have not an iota of commerce but what we enjoy at her pleasure. At her pleasure? No; at the pleasure of an officer on board a frigate at sea. At her pleasure? No; at the pleasure of an inferior judge of an inferior Court of Admiralty. If gentlemen will attend

JANUARY, 1810.

John Thompson.

H. OF R.

to the injuries stated in the Declaration of Independence and to our present situation, they will find that our present corresponds with our then situation in almost every point. Great Britain has refused her assent to an equitable settlement of our differences; she has refused atonement for the affair of the Chesapeake; she has cut up our trade with all parts of the world; she has plundered our seamen, ravaged our coast, and destroyed the lives of our people; she has constrained our fellow-citizens taken captive on the high seas to bear arms against their fellow-citizens, to become instruments of oppression on their own people and of the violation of our commercial rights; she has excited or attempted to excite the people of this country against their own Government. In every stage of these oppressions we have sought redress, by negotiation, in the most humble manner. The cup of humiliation is filled to the brim. The world knows it—you must not shut your eyes against the fact, that you have no alternative, but an abandonment of the ocean and submission to Great Britain, or the protection of our rights by force. Before you submit, burn your Declaration of Independence, tear down the emblems of liberty which adorn this splendid hall, and trample them under foot, that they may not exist to reproach us with a departure from the spirit of our fathers. I wish that the spirits of the departed heroes could rise in this assembly during the discussion of this question. If they had addressed you, would they tell you of your weakness, or appeal to your fears by proclaiming your inability to protect your rights? They would banish such idle stuff from this hall.

What does the Declaration of Independence tell you? That you have a right to establish commerce. Britain tells you that you have not a right, and you are at issue on one of the great principles of freedom. Does not your Declaration of Independence declare: "That as free and independent States they have full power to levy war, conclude peace, contract alliances, establish commerce and to do all other acts and things which independent States may of right do?" Britain says we have not the power—and what are we about to do? To submit; for this bill is submission. Before we submit, let us make one effort at least to preserve the independence of our country; let us take the advice of Hercules to the carter: "Whip thy horses, set thy shoulders to the wheel, and then call upon Hercules." Let us set our shoulders to the wheel; and, if we cannot protect our rights, then and not till then, let us fold our arms and call upon Hercules.

Mr. DANA observed that, although opposed to the bill, he should vote against postponement, because of the embarrassment and fluctuation such a course would produce in mercantile transactions.

The question was taken on postponement and negatived.

Mr. GARDENIER assigned reasons why he deemed it proper to vote for the bill. When he concluded, an adjournment was called for and carried, and the House adjourned.

TUESDAY, January 23.

Mr. MUMFORD presented a petition of sundry inhabitants of the State of New York, to the same effect with a petition presented yesterday from sundry other inhabitants of the said State.—Referred to the committee appointed yesterday on the petition aforesaid.

A Message was received from the President of the United States, transmitting an account of the contingent expenses of Government for the year 1809.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act authorizing the fitting out, officering, and manning, the frigates belonging to the United States," to which they desire the concurrence of this House.

JOHN THOMPSON.

Mr. JOHNSON, from the Committee of Claims, made a report on the petition of John Thompson, referred on the second instant; which was read, and referred to a Committee of the Whole House on Friday next. The report is as follows:

That, from documents accompanying the said petition, and seeming upon the face of them to be correct and authentic, it appears that the petitioner was a captain in the Revolutionary war, and belonged to a regiment commanded by Colonel Hazen, called "the Congress's own regiment;" that after he had served as captain in the said regiment, "with honor and reputation," for about one year, he entered as a colonel into the service of Pennsylvania, to defend that State against the Indian incursions, having previously solicited and obtained from Major General Sullivan leave to retire from the Army, on account partly of his ill state of health, but principally because his proper rank had been withheld from him; that in recruiting and for the pay and subsistence of his company in the said Congressional regiment, the petitioner expended considerable sums of money, which your committee are convinced have never been fully reimbursed to him: and that, from two accounts made out by Edward Chinn, paymaster to the regiment, one during the war, and the other in the year 1788, and from a letter written in 1809, by Mr. Nourse, the Register, it is manifest that the petitioner's account has never been finally adjusted.

The petitioner has exhibited an account showing a balance of two thousand six hundred and twenty-nine dollars and five cents in his favor against the United States; which account, together with the vouchers supporting it, the committee have attentively investigated. Every item in the account is established to the entire satisfaction of the committee, except the charge of three hundred and forty-three dollars and thirteen cents, for the pay of the company in the month of August, 1777. The embarrassing and difficult situation of the regiment in relation to the enemy in that month, is offered by Captain Thompson as the cause of his not being able to produce a regular pay-roll in support of the charge or particular item alluded to. Let this item be stricken from the account, and then it appears that the United States are indebted to the indigent petitioner in the sum of two thousand two hundred and eighty-five dollars and ninety-two cents; but by the several resolves and statutes of limitation passed by Congress, *his claim, in the eye of the law, is satisfied.* The petitioner, however, alleges that, in his case, the prin-

ciples of equity ought to control the rigor of the law, because he endeavors to prove, and has indeed satisfied the committee, that the settlement of his account within the time limited by law, was prevented by circumstances not within his power.

The letter of the Register already referred to, and his certificate thereto subjoined, show that the petitioner attended in person, and also by Mr. Nourse, his agent, at the office of the Commissioner of Army Accounts, in New York, for the purpose of getting his account settled, but that an adjustment of it did not take place in consequence of "some difficulty" arising out of the unsettled situation of the accounts of Lieutenant Colonel Antil, of the aforesaid regiment. To obviate this difficulty, the petitioner states that he had made unremitting efforts for the liquidation of his account with Edward Chinn, the paymaster of the regiment; presuming that if he could succeed in this, his account would then be admitted by the agent of the United States. It appears, as well from the said letter of Mr. Nourse, as from the petitioner's representations, that his efforts were fruitless, and that Chinn not only refused or neglected to make a complete statement or settlement of the petitioner's account, but the petitioner moreover alleges that he was unable in due time to obtain from him such papers as were deemed indispensable for its adjustment. Chinn died; the statute of limitations began to operate, and here the subject rests.

In reporting in this, as in all other cases, the committee consider themselves bound by the law of the land. Could they indulge their feelings on the present occasion, they would not say to an old soldier, who has bravely fought the battles of his country, that his just claim is extinguished by the mere lapse of a given number of years, during which he had not the means of enforcing it. Not compassion alone for a poor soldier, but the mandates of justice, would impel them to speak a very different language. Conforming, however, to the positive limitations of Congress, they submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

AMERICAN NAVIGATION BILL.

Mr. EPPES moved to postpone the further consideration of this bill till to-morrow; which was negatived, 51 to 50.

Mr. GOLDSBOROUGH moved to amend the bill, by inserting after the clause for repealing the non-intercourse law the following words: "except so much thereof as repeals certain acts therein mentioned." The reason assigned by Mr. G. for this motion was, that, the embargo law being unlimited, and the non-intercourse law repealing the embargo being a temporary law, it might be conceived that when the non-intercourse law expired or was repealed, the embargo law would be revived and again in force. This not being the intention of the House, he was desirous to put an end to all doubt on the subject.

The motion was agreed to without a division.

On motion of Mr. PITKIN, the words "or having sea-letters" was inserted after the words "registered vessels" in the 5th section, ayes 78. The operation of this amendment will be to permit the sea-letter vessels now in existence to enjoy

the same privileges under this bill as registered vessels.

Mr. HALE spoke against the bill.

Mr. MAÇON said, he had spoken so often in the Committee of the whole House on the bill, as well of the principles which it contained, as on the detail, that he regretted to be under the necessity of again speaking, but observations had been made, which compelled him to do it; he promised, however, that this should be the last time he should address the House on the question, and that he would endeavor to keep as clear as possible of the arguments heretofore delivered.

It is no question now, sir, whether the nation be in a worse situation than it has been. If it be in a worse situation, that situation has been produced by the unjust acts of Great Britain and France, neither of which can with truth charge the nation or its Government with partiality for the other. France pays no regard to her treaty with us, and Great Britain attacked the frigate Chesapeake, and impresses our seamen; put these out of the list of wrongs done us by them, and there is no difference in their conduct towards us. The true question then for us to decide is, what ought to be done in the present state of the country, and of the two great belligerents of Europe? If we mean to continue at peace with both, there can be no doubt but we ought honestly to endeavor to do that, which shall be right as it relates to both. This House has heretofore formally resolved, and I believe every member who has addressed you has declared, that he would not submit either to the Decrees of France, or the Orders in Council of Great Britain. Do nothing, and what follows? I will not say; but the nation will surely decide. The bill before you has never been considered by me a very strong measure; though not a strong measure, it is certainly very far from submission, and such a measure as can in this nation be carried into complete execution; to say the least of it, it is a fair protest against the acts of both Great Britain and France. And can you do more at this time and preserve peace? If open war be preferred, there is cause enough against both.

If the bill be rejected, what pacific system will you adopt? None has been mentioned during the long time this bill has been debated; it would seem, therefore, to follow, that no better had been yet thought of. The first objection made to the bill, was, that it would operate solely on England; but, very lately, it has been discovered that it will scarcely be felt in England, and that it would operate solely on France. Can any argument more strongly demonstrate the impartiality of the bill, than these contradictory objections? If, however, it be true, that it will operate harder on them than on the other; that is not owing to the bill, but to their different conditions, with which we have nothing to do; it is their acts and not the uncommon situation in which they both now stand, that have injured us. The bill declares to both, that their public and private ships shall not enter our waters, and that their produce and manufactures shall not be

JANUARY, 1810.

American Navigation Act.

H. OF R.

brought here, except in the manner prescribed in it, and either of them may at any time, by withdrawing their unjust edicts, prevent the operation of the bill as to the nation withdrawing. And really it seems a little strange, that no one has attempted to amend the bill, so as to make it operate impartially, accordingly to his opinion; when it has been objected by some, that it would operate partially against England, and by others, that it will operate partially against France. The truth is, sir, that a fair examination of it will convince any man, that the system will operate as equally on both nations as any that can be devised, in their present situation; and in determining what we ought to do, we ought not for a moment to forget the power which one has on the land, and the power which the other has on the sea, nor ought we to expect that France will regard the freedom of the sea, when she does not regard the freedom of the land; nor ought we to expect that Great Britain will regard the freedom of the land when she does not regard the freedom of the seas. In examining our foreign relations, especially with respect to a Legislative act, we ought always to have in view the situation of the two belligerents: without this it will be difficult indeed to preserve our neutrality and peace, and those who think it unwise to preserve these any longer, will undoubtedly vote against the bill. But, before they do this, I hope they will look at the Governments which have at one time or other taken part in the wars and struggles of Europe for the last twenty years. Many of the Governments are destroyed; no matter whether Republics or Monarchies, all shared the same fate, and new Governments have sprung up in their places without a single Republic among them. I ask gentlemen to tell me, what must have been the condition of the people during all these wars and all these revolutions? To those who talk so much about war, I address myself; and it is a little strange, that notwithstanding we have so many war speeches, we have no war motions.

The United States are now the only neutral nation in the civilized world—to them is committed the sacred trust of preserving neutral rights, and to no nation are they more valuable. And to those who talk so much about war, permit me, sir, to inquire, whether they can seriously believe we shall be so likely to do this by war, against those who do not respect them either on land or water, as by other means; if they do seriously believe that we can compel France and England in any reasonable time to do this, I am willing to confess they have rather more faith on this point than I have. But, if we cannot easily compel England and France to observe our neutral rights, does it follow that we should not keep up a protest against the violations of them? to me it seems not; but, on the contrary, that it is our duty to do so; that whenever the time shall arrive, when the Governments of civilized nations shall incline to respect the public law and morality, that then there may be a standard to appeal to; and then, if not before, we shall find the advantage of the plan now proposed over that

of war, and then we shall reap a real advantage from the course which this nation has so honorably pursued, and which it is still her interest to pursue, I mean impartial neutrality. While Europe continues in her present state no consideration, unless we are actually attacked, ought to induce us to go into the war, either on the side of England or France. They have both been anxious that we should engage in it on their side, and would no doubt make fair promises to persuade us to engage; but when once engaged, you would be considered as bound to them at least for the war, and their fair promises all forgot. Those who complain so much of our present situation, and those who speak so often and so much about war, for they both oppose the bill, ought to cast their eyes on the nations of Europe who have been plunged into the war, either to better their condition or vindicate what they supposed to be the honor of their Government, and compare our situation with that of the nation which they may think has suffered least, and they will find cause to rejoice that their lot has been cast to live under a Government and in a nation, both of which has had discretion enough to keep out of the war which has nearly ruined all that engaged in it.

I should like to be informed, whether the gentlemen who talk so much about war have turned their attention to the existing state of commerce? Have they ascertained the number of sailors now in foreign ports and on the high seas? Have they calculated the value of the ships and cargoes now out of the limits of the United States, so that they can inform the House of the number of seamen and the amount of capital, which may be jeopardized by the adoption of war measures? Have they, as a preparatory measure, advised that messengers should be immediately sent to Europe, and to the ports of Asia frequented by our merchant ships, to inform our countrymen of their danger, and advise them to return home as soon as possible? Have they even thought of an embargo, to prevent the sailors, the ships, and cargoes, now at home, from leaving the country? And whatever may be said at this day about an embargo, I agree to the truth of an observation, made by a gentleman from South Carolina, (Mr. TAYLOR,) that no Administration, which acts wisely, ever will go to war without first laying one to get the sailors, vessels, and capital, which may be in foreign countries, at home, before a declaration of war shall be made. We have been told that we could take the Canadas; this is not doubted, but, while we are taking them, Great Britain may take as many of our vessels and as much property now without our limits as would be four times their real value—without considering the unfortunate situation of the seaman who is made a prisoner, probably before he knows that the country is in war. Considerations like these seem to have no weight; no matter what consequences result, we must have energetic measures; war pell-mell, to get clear of this bill, which is said to be downright submission. This seems to me, especially in the present state of our affairs, to

be a new sort of submission. Is it submission, openly to tell the two most powerful nations in the world, you shall not come here? No, it is not. The very prohibition is an act of sovereignty; while one declares it to be submission to France, another declares it to be submission to England; though both agree that it is submission, they disagree as to the Power to which it submits. Nay, sir, it has been said, that this is entirely a mercantile question, and that farmers and planters ought to have nothing to do with it. Then farmers and planters ought not to pay any part of the expense which may grow out of the present state of our affairs. The fact, however, is, that the nation is made up of planters, farmers, merchants, mechanics, and professional men, and all have an interest in the question; and it surely affects the pecuniary interest of the planter and farmer, more than it does that of the others. Double freight does not affect the merchant. He makes his profit, and the agricultural people pay it—for every expense attending his trade, he lays an additional advance on his goods, and the agricultural people make all good to him. Besides, sir, the President in his first Message told the House, that he had authorized our Minister at London to inform the British Government that another Minister would be received here, undoubtedly with a view to adjust our differences by negotiation. What would be thought of our Government, if, after making this communication to a foreign Power, we were to do that which some gentlemen have told us we ought to—make open and manly war? Nay, sir, suppose Great Britain should send another Minister, and instead of his finding the Administration ready to receive him, and to treat with him as he expected, he is met by a declaration of war, and told to return home? This would not be like the dismissing the late Minister for indecent expressions in his letters. To me it seems there would be nothing candid, nothing honorable in transacting our national affairs in this way; it would be a departure from the principles which have always governed the nation.

There is nothing in the bill which prevents the Legislature from adopting any other measure—the bill may pass, and the House may hereafter adopt such energetic measures as may be thought advisable.

A gentleman from New York (Mr. Root) lately told us, that which we had been told before, that the bill was resistance to France and submission to England. He has completely proved that Napoleon had submitted to England, as he did that we were about to do it. He told us that Napoleon by his folly was aiding England to carry her Orders in Council into effect. If then to carry her Orders in Council into execution be submission, Napoleon has submitted; but neither his folly nor the bill on the table are submission.

My colleague, (Mr. SAWYER,) who is for very strong measures, seems to think that the friends of the bill consider it a certain cure for every complaint to which the body politic may be subject. None of them have yet said so much for it.

All that they have contended for, according to my understanding, is this, that in the present state of Europe, and of the United States, they have not been able to discover a better system, a system that would operate less on ourselves, and at the same time have some operation on England and France. My colleague said a great deal about war and energy. I have already endeavored to show, that war, under the existing circumstances of the nation, would be injurious; I will only add that, by declaring it at this moment, you would put it in the power of Great Britain to take probably one hundred millions of our property, and twenty or thirty thousand of our sailors.

I have not seen the force of the observation of my colleague, as applied to the question now before the House, that Great Britain enforces her orders on the ocean by her navy. He cannot, I am sure, suppose that our little navy, with all their bravery, could enforce our laws on the ocean, if opposed by all the maritime strength of the world; and the navy of Great Britain is able to do this. It is done by physical force and not by words; and when we talk about maritime war, we ought to compare the means we have with the end to be obtained. He thinks this the proper time to make war on Great Britain, because she is on her last prop and almost ready to fall. If it be so, there is no occasion for us to give aid, to kick her down. Let Bonaparte have the sole credit and honor of putting her down. I understood my colleague to say, that the friends of the bill were desirous of having a war with Great Britain, but were afraid to declare it. This, sir, is not the case with me. I am not afraid to declare my sentiments upon any question, either of war or peace. I am not desirous of war with any nation on earth, nor will I consent in the present state of the world to enter the war which has so long ravaged Europe, either on the side of France or England. But whenever the National Government shall declare war, I shall be found as ready to adopt the necessary measures to carry it on successfully as any man in this House or in this nation. Again, he told us that this is the very time to make the attack, because all the nations of Europe are leagued against her—this is no reason with me, because I am most decidedly against joining any European league, or having an alliance with any European Power. I am opposed to joining the fate of this happy country to that of any nation in the world; nor do I wish to have a Minister at the Congress, which Napoleon is to call to settle the maritime rights and secure the freedom of the sea. I have no faith that it will be done by him. Give him power on the water, and he will do as he has done on the land. Give Great Britain power on the land, and she will do as she has done on the water. But, above all, this weak bill produced the second Message of the President of the United States. If that Message has any bearing on the question, according to my weak understanding, it is most decidedly in favor of the bill; indeed it is not easy to conceive how the President with propriety could have said more